

Kenneth L. Schroeder	704
Robert J. O'Leary	708
Henry Klinge	713
Joseph Young	717
William LeVan	721
Raymond W. Jenkins	731
Robert Brune	733
Ben G. Miller	737
James T. Manning	739
Allen Deweese	743
Kenneth Cunningham	749
Arthur Germer	752
Gerald Pierce Mason	753
Lloyd Kidd	756
Kenneth Ellison	759
Floyd Haas	762
William E. Mabry	764
Carroll C. Shelton	773
Lester Cajacob	832
William J. Murphy	834
Corban Mintner	839
Albert Lang	842
Gustave Engel	843
Herbert Hinrichs	849
Francis X. Mohan, Sr	853
William Ulrich	857
Patrick Joseph Hickey	859
Fred A. Gerding	862
John C. Laird	864
Gerald B. Roberts	868

Richard K. Harrell	872
Joseph W. Ungerer	875
Robert A. Young	877
William Krussel	886
Floyd L. Kimmell, Jr.	889
James A. Lawler	891
Arthur Toney	893
Leo F. Pierson	897
Frank O'Neil	899
Joseph Deckeman	901
John B. Marshall	903
John F. Marsh	910
Raymond Seabaugh	914
Donald Trachte	919
John R. Casey	925
Don Schaefer	929
Benjamin F. Miller	938
John Kiely	943
Richard Sullivan	947
John A. Kelly	952
Charles W. Campbell	956
James E. Craft	962
Edward W. Steska	971
Harry Craig	1050
Objections to court's charge to the jury	1088
Defendants' refused instructions	1096
Court's charge to the jury	1101

Objections of defendants to refusal of court to direct a verdict of acquittal at the close of the Government's evidence in accordance with motions lettered "A", "B", "C", and "D" and at the conclusion of all the evidence lettered "E", "F", "G", and "H"	1120
Motions for judgment of acquittal at close of Government's case	1121
Local Union No. 562	1121
Callanan	1121
Lawler	1122
Seaton	1122
Motions for judgment of acquittal at close of all the evidence	1123
Local Union No. 562	1123
Callanan	1124
Lawler	1124
Seaton	1125
Verdict	1125
Notice of appeal	1126
Opinion dated June 8, 1970 of the United States Court of Appeals for the Eighth Circuit	1128
Opinion dated July 17, 1970 of the United States Court of Appeals for the Eighth Circuit	1144
Letter dated August 26, 1970 of Murry L. Randall to the Eighth Circuit	1150
Letter dated September 10, 1970 of the Eighth Circuit to Defense Counsel	1151
Opinion and Dissenting Opinion of the United States Court of Appeals for the Eighth Circuit in Banc ..	1153

Mr. Riddle: With that, Your Honor, the Government rests.

.

[1,057] DEFENDANTS' EVIDENCE.

PAT STIEFERMAN,

having previously been sworn, resumed the witness stand and testified in behalf of the defendants as follows:

[1,058] **Direct Examination.**

By Mr. Nangle:

(Thereupon, Defendant Union Local 562's Exhibits J, K, L, M, N, O, P, Q, R, S, T, U, U-1 and U-2 were marked by the reporter for the purpose of identification.)

Q. Mrs. Stieferman, you have testified here before several days ago in the beginning of the Government's case? A. Yes, sir.

Q. And you were the one who kept the records for the Voluntary Fund in 1963 and 1964? A. Yes, sir.

Q. And thereafter you continued to assist in the keeping of the records; is that correct? A. Yes, sir.

Q. I'll hand you what's been marked as Local Union 562's Exhibit J, and ask you to look at this exhibit, if you will, please.

Do you recognize what that is, Mrs. Stieferman? A. Yes, sir.

Q. Would you tell the Court and jury what it is, please? A. This is the ledger that was kept for 1967.

Q. For the entire year 1967? A. No, sir. Up until September. From January through September.

[1,059] Q. And this is part of the record of the Pipefitters Voluntary Fund; is that right? A. Yes, sir.

Q. OK. Now, Mrs. Stieferman, I'll ask you to look at the box which is down here at the bottom here, if you will, please, which has been marked Local Union 562's Exhibit K, and ask you if you can recognize what that is?

A. Yes, sir. Those are the contribution reports for—these are for 1963.

Q. Thank you. I'll ask you to look at the box on the top, which has been marked Defendant Local 562's Exhibit L, and ask you if you can identify those records? A. These are the contribution reports for 1964.

Q. And I'll ask you to look at the box at the bottom of that second cart, which has been marked Defendant Local 562's Exhibit M, and ask you if you can identify those records? A. These are the contribution receipts for 1966.

Q. Contribution reports? A. Reports. I am sorry.

Q. For '66? A. These are '65.

Q. And I'll ask you to look at the records which are on the top of that same cart, which are marked Local 562's Exhibit N, and ask you if you can identify those records? [1,060] A. These are contribution reports for 1966.

Mr. Nangle: Is it all right for the witness to remain off the witness stand, Your Honor?

The Court: For the time being anyway.

Q. (By Mr. Nangle) I will ask you to look at the box at the bottom of the last cart, which has been marked Defendant Local 562's Exhibit O, and ask you if you can identify those records? A. Contribution reports for 1967.

Q. Is that for the entire year of 1967? A. No. This would go from January to September.

Mr. Nangle: Thank you. You can get back on the stand, please.

(The witness resumed the witness stand.)

Q. (By Mr. Nangle) I'll now hand you what's been marked Defendant Local 562's Exhibit P, and ask you to look in this envelope and see if you can identify those records? A. These are cancelled checks and bank statements from 1963, January, through September, 1967.

Q. Thank you. I'll now hand you what's been marked Local 562's Exhibit Q, and ask you if you can identify that exhibit? A. These are receipted bills for 1963 and 1964.

Q. What type of bills? [1,061] A. These are paid bills.

Q. Those are the paid bills for 1963 and '64? A. Yes.

Q. Thank you. I'll hand you what's been marked Local 562's Exhibit R, and ask you if you can identify that? A. These are the paid bills for 1965.

Q. I'll hand you what's been marked Local 562's Exhibit S, and ask you if you can identify this? A. These are the paid bills for 1966.

Q. I'll hand you what's been marked Local 562's Exhibit T, and ask you if you can identify that? A. These are the paid bills until September of 1967.

Q. For the Voluntary Fund? A. Voluntary Fund.

Q. All of these records have been identified for the Voluntary Fund, is that correct, Mrs. Stiferman? A. Yes, sir.

Q. Now, I'll show you what's been marked Local 562's Exhibit U, and ask you if you can identify this? A. These are the Voluntary Fund Contribution Agreements.

Q. I'll show you what's been marked Local 562's Exhibit U-1, and ask you if you can identify this? A. These are also Voluntary Contribution Agreements.

Q. I will show you what's been marked Local 562's Exhibit [1,062] U-2, and ask you if you can identify these? A. These are Voluntary Contribution Agreements.

Q. All of these records which you have so far identified this morning were records of the Pipefitters Voluntary Fund, Mrs. Stieferman? A. Yes, sir.

Mr. Nangle: Excuse me just a moment, Judge.

At this time, Your Honor, I'd like to offer in evidence Local 562's Exhibits J through U-2.

Mr. Riddle: The Government has no objection to these offerings, Your Honor.

The Court: All right. They will be received. Do you want to offer A to J?

Mr. Nangle: Yes, Your Honor.

The Court: All right. They will be received.

(Whereupon Defendant Union Local 562's Exhibits A, B, C, D, E, F, G, H, I, J, K, L, M, N, O, P, Q, R, S, T, U, U-1 and U-2 were received in evidence.)

Mr. Nangle: Excuse me a moment, Your Honor. May the record reflect that these are Government's Exhibits 1 through 5?

Mr. Riddle: If they are that number, -yes.

The Court: Well, if they are Government's Exhibits 1 through 5, the record shows that already.

[1,063] Mr. Nangle: Thank you, Your Honor.

Q. (By Mr. Nangle) Mrs. Stieferman, you previously have examined Government's Exhibits I through 5, which I am holding here in my hand. Now, Government's Exhibits 1 through 5, and Local 562's Exhibit J through U-2 were all kept by you; is that correct? A. Yes, sir.

Q. The summary records in later years, I believe you testified before, were kept by you, but not the collection reports. They were accumulated in some instances by others? A. Yes, sir.

Q. I will ask you, Mrs. Stieferman, if during the period of time 1963 through late 1967, if you ever had occasion to confer with anyone professionally about the keeping of these records? A. Yes, sir.

Q. And would you tell the Court and jury who you conferred with? A. You. Mr. Nangle.

Q. Thank you. A. And, occasionally, Mr. Shelton.

Q. And do you recall the first time you consulted me about the keeping of these records? A. I believe it was in '64.

[1,064] Q. And did you confer with me on any other occasions then in 1964? A. Yes, sir.

Q. Do you have any way of expressing how many times that would have been? A. I don't know just how many times, but there were quite a few times.

Q. And you mentioned Mr. Shelton. Who is Mr. Shelton? A. Mr. Carroll Shelton. He is an auditor. He talked about the books several times.

Q. Now, Mrs. Stieferman, did Mr. Shelton and myself advise you about the keeping of these records? A. Yes, sir.

Q. And did you comply with our advice? A. Yes, sir.

Mr. Riddle: I will object to that, Your Honor, as to complying with his advice. This would call for a conclusion. The question could be what advice he gave her, and what she did, and so forth.

The Court: All right. It will be sustained.

Q. (By Mr. Nangle) Mrs. Stieferman, did you have occasion to examine these records in October or November of 1967? A. Yes, sir.

[1,065] Q. And—

The Court: Now, you mean the entire group. I don't know.

Mr. Nangle: Well, I'll identify them, Your Honor.

The Court: All right.

Q. (By Mr. Nangle) Mrs. Stieferman, the Government's Exhibits 1 through 5, and these exhibits that you identified this morning comprise the records of the Pipefitters Voluntary Fund for 1963 through September 1967, I believe; is that correct? A. Yes, sir.

Q. Now, did you have occasion to examine these records of the Voluntary Fund, which would be Governments Exhibits 1 through 5, and Local 562's Exhibits J through U-2, in October or November of 1967? A. Yes, sir.

Q. And do you know what happened to these records in October and November of 1967? A. Yes, sir. The Government called for them.

Q. I see. And did you then have occasion to examine these records again after August 9th of 1968? A. Yes, sir.

Q. And could you tell the Court and jury briefly if there was any difference in the condition of these records [1,066] between the time that you examined them in October or November of 1967 and in August of 1968?

Mr. Riddle: If it please the Court, that would be calling for a conclusion. She can testify as to what shape they were in, and what was in them one time and another, and the jury can determine what differences there was.

Mr. Nangle: I will rephrase the question, Your Honor. Thank you, Mr. Riddle.

The Court: All right.

Q. (By Mr. Nangle) Would you tell the Court and jury the condition of the records in October or November of 1967, please? A. They were kept by years in envelopes with tapes marked on each envelope, the amounts that were in each envelope and put, kept in boxes for that particular year.

Q. And were these tapes used in entering the totals in the receipts books, Mrs. Stieferman? A. Yes, sir.

Q. Now, would you describe the condition—would you tell the Court and jury—let me rephrase that.

The Court: Did you look at those envelopes after August 9th?

Mr. Nangle: Thank you, Your Honor. Did you look at the envelopes after August 9th?

[1,067] A. Yes, sir.

Q. What did you find then? A. That some of the tapes were removed, and some of the reports, contribution reports, were in the wrong envelopes, and this type of thing.

Mr. Riddle: I will object to "this type of thing," Your Honor, and ask that that be stricken.

The Court: All right. That portion of the testimony stating "this type of thing," will be stricken, and the jury will disregard it.

Mr. Nangle: Excuse me, Your Honor. I have no other questions at this time, Your Honor.

The Court: All right.

Cross-Examination.

By Mr. Riddle:

Q. Mrs. Stieferman, in identifying these records, as you have for the Court and jury, is there a receipt of records among the various exhibits that you have just identified, that contain payments that were received into the Fund by mail or by people who just came to the office and dropped off their money? A. Yes, sir.

Q. Now, these are separate and apart from the sheets or documents that were received from off the job, from the [1,068] foreman or from the stewards? A. Yes, sir. They are the same type, but they were different. I mean I handled them in the office if they came by mail.

Q. Yes, sir. Or yes, ma'am. The records that I am referring to were prepared by whom? A. In '63 and '64, they were prepared by me.

Q. All right. Well, without going into each detail, what did you enter on these records that we are speaking of? That is now for money that came in by mail, or money that came in by an individual member of the Union, or an out-of-towner? A. The man's name and the amount of either the check or the cash money if he brought it in to the office.

Q. Ma'am, did you maintain a separate ledger for that purpose? A. No, sir. Not a ledger. A sheet, a contribution sheet, just like the same that was used on the jobs.

Q. And how did you label it? A. Office mail.

Q. Office receipts? A. Office mail or receipts into the office. I forgot just what I put, but something similar to that. Office mail, I believe, for the ones that came through the mail, and maybe just office, just simply office for the ones that paid in the [1,069] office.

Q. For a given week, just assume any week during that period of time, you would have in your office the reports and money that came in from the foremen or stewards on the job? A. Yes, sir.

Q. Which would show the names of the people who had paid? A. Yes, sir.

Q. And the amount they had paid? A. Yes, sir.

Q. Then, in addition to that, you had another record which you maintained? A. Yes, sir.

Q. Which contained the names of people who apparently were working that week? A. Yes, sir.

Q. But whose name would not appear on the foremen's or stewards' reports? A. Yes, sir.

Q. All right. So in order to determine from the records you were keeping, in order to determine who all paid

for a given week, it would be necessary to look at both the foremen's reports and the office receipts? A. Yes, sir.

[1,070] Q. And it would be necessary to compare the two to see who had paid, and how much had been paid? A. Well, I'm afraid I don't understand. Like to compare them. The sheets that I kept were necessary to know how much money had come in by mail, and how much had come in in the office, or how many people had paid individually in the office.

Q. Yes, ma'am, but let's assume for any week in question that you have here a list or stack of all of the receipts, or all of the forms and reports that you received from foremen. A. Yes, sir.

Q. And you see on one of these sheets a member by the name of John Brown, and you have got beside his name a zero. A. Yes, sir.

Q. Meaning that he paid nothing to the foreman? A. Yes, sir.

Q. Now then, if you wanted to determine whether John Brown had paid for that week, you would consult some of the other payments, the separate sheets that you prepared there? A. Yes, sir, you could do that.

Q. And if Mr. Brown's name appeared on there, if he made a payment that week, it would appear on that sheet? A. Yes, sir.

Q. So by checking these sheets—— [1,071] A. Yes, sir.

Q. —you could pick any employee out, or any member for that particular week, and determine if he paid on the job, or if he paid into the office directly? A. If he paid that week; yes, sir.

Q. Now, if you wanted to check and see if he paid for a past week, you could check the records for the past week, and the current records? A. Yes, sir.

Q. If you wanted to check back even three or four months, you could do so by checking these records? A. Yes, sir.

Q. And at the end of any year, if you chose, you could go to these records that you maintained, and could find how many people paid, and you could determine how much every person paid? A. Yes, sir.

Q. These records were kept currently and contemporaneously with the occurrences daily, or weekly, or whenever it occurred? A. Yes, sir.

Q. And these records, all of them that you are talking about, were kept at the union hall, or the union building on Pierce Avenue? A. Yes, sir. 1242 Pierce.

[1,072] Q. And that's the same building where the Union president has his office? A. Yes, sir.

Q. Where Mr. Callanan has his office? A. Yes, sir.

Q. Where Mr. Seaton has his office? A. Yes, sir.

Q. And where Mr. Lawler has his office? A. Yes, sir.

Q. Now, there were other reports kept there, in addition to these, I assume, out at the union hall? A. Yes, sir.

Q. There were records kept of the regular Union assessments? A. Yes, sir.

Q. That were either paid by the individual members, or paid by the contractors or company on the checkoff system? A. Yes, sir.

Q. And they were received weekly, or every— A. I am not sure how they were received. I imagine it is weekly.

Q. Yes. And they all came in at this same address on Pierce Avenue? A. Yes, sir.

[1,073] Q. Mrs. Stieferman, again referring to these records, at the time that a subpoena was served upon the Union by the grand jury sometime last fall, about ten months ago, do you remember that occasion? A. Yes, sir.

Q. And these records were subpoenaed, and I'm assuming that you prepared in putting them together? A. Yes, sir, I helped.

Q. Now, at that time, was Mr. Beck working there with you also? A. Mr. Beck was working in the Voluntary Fund then.

Q. Yes. At this time you were working over in the Welfare Fund, but keeping the books of the Voluntary Fund? A. I was helping out with them.

Q. Yes. Do you recall a request from the grand jury made, wherein the grand jury requested that a list of those persons who collect the voluntary contributions to the Fund be furnished? Do you remember that request coming in? A. No, sir, I don't think so.

Q. Or the request from the grand jury for the names of those pipefitters who do not contribute to this Fund? Do you remember that? A. No, sir.

(Thereupon Government's Exhibit No. 214 was marked by [1,074] the reporter for the purpose of identification.)

Q. Ma'am, do you recall whether or not anyone along about the latter part of November of last year, of 1967, if anyone asked you to check through the records and determine the names of any pipefitters who did not contribute to this Fund? A. No, sir.

Q. At any time during 1967, did any member of the Union, any of these defendants, ask you to make such a check of the records? A. No, sir.

Q. Or did anyone ask you to supply the list of the persons who collect the money into this Fund? A. No, sir.

Q. I'll show you, ma'am, what has been marked Government's Exhibit 214, which, by the way, is a copy of a letter. I will need to help you locate the second page of it. This is the second page, and this is the first page.

(The witness examined exhibit.)

Q. Ma'am, you have just looked at the Government's exhibit I handed you, which purports to be a letter, I believe, signed by Mr. Edward Beck.

Mr. London: May we examine the exhibit, please?

Mr. Riddle: Yes, in just a second. And the rest of [1,075] it is addressed to the United States Grand Jury, Federal Building, St. Louis.

Ma'am, my question to you is this: Did you assist in the preparation of this letter in any way? A. No, sir.

(Mr. Riddle handed exhibit to defense counsel.)

Q. (By Mr. Riddle) Mrs. Stieferman, you have identified a great number of records. In order to clarify this point for the Court and jury, among the records that you have identified, does there appear the records of the Callanan Gift Fund? A. No, sir.

Mr. Daly: Your Honor, we are going to object to this irrelevant issue. It certainly is not within the scope of the direct examination.

Mr. Riddle: It is with respect to the records of the Fund. She testified that this is all of them, and I think that this is very much within the scope of the direct questions of this witness.

The Court: Well, she's already answered the question now. I will overrule the objection. All right. Let's proceed.

Q. (By Mr. Riddle) Your answer to that was— A. No.

Q. No. This gentleman by the name of Shelton, whose name you gave to Mr. Nangle in response to a question, he's a [1,076] Certified Public Accountant? A. Yes, sir.

Q. And do I recall your testimony correctly to be that you consulted with him? A. Yes, sir.

Q. About these records? A. About the keeping of the records; yes, sir.

Q. Now, what did you seek? Advice from him? A. No, sir. I talked to Jimmy Nangle. When I asked any questions, I usually asked Mr. Nangle, but I was there when Mr. Shelton was advising on how to keep the records.

Q. Well, now, does Mr. Shelton do the record keeping or the auditing for the Union? A. Yes, sir.

Q. Does he audit and keep the records for the Welfare Fund? A. No, sir.

Q. What records does he audit and keep, or supervise for the Fund? I mean for the Union? A. He audits the Union's records.

Q. That's the assessments? A. Yes, sir.

Q. And dues, receipts? A. Yes, sir.

[1,077] Q. And expenditures of the Union? A. Yes, sir.

Q. Now, ma'am, when you were consulting with Mr. Shelton about the records that you have just identified here today, did you ask him to audit those records at any time? A. No, sir.

Q. Well, did you ask him to run any checks to see if the monies were there, or if the records were adequate? A. No, sir.

Q. Did you ask him to examine your ledger sheets and your—— A. Yes, sir, I showed him the ledger sheets, you know, that I was keeping, and asked him if these were, if he had any suggestions or, you know——

Q. Did he have any suggestions? A. Yes, sir. He suggested several things that I wasn't doing that he thought would clarify it a little bit better.

Q. Is this the only type of advice you sought from him? A. Yes, sir.

Q. Did you ever ask him to make a monthly report, or profit and loss, or receipts and disbursements report? A. No, sir.

Q. To your knowledge, he never did do that with or to these records? [1,078] A. No, sir. Well, he didn't do it until just recently.

Q. That is, within the last few weeks? A. Yes, sir.

Q. Now, a number of the exhibits that you have identified purport to be receipts or vouchers showing payments from the accounts of the Fund? A. Yes, sir.

Q. I'm not clear what your earlier testimony was when you appeared several days ago, but are most of those bills, or were most of those bill paid by you? A. In 1963, all of them were paid by me.

Q. What about in '64? A. In 1964, I might say most all of them were paid by me, and then from then on I did not make the actual payments. I did not write out the checks or the bills then, from '64 on.

Q. Did Mr. Beck write them out at that time? A. Yes, sir.

Q. Ma'am, whatever payroll expenses that the Fund had, did you pay those bills? A. The bill, the checks—

Q. Or the salaries or payroll? A. In '63 and '64, but not after that.

Q. Who was the Director of the Fund in '63 and '64? A. Mr. Lawler.

[1,079] Q. Mr. Lawler? A. Yes, sir.

Q. Did he receive a salary from out of the Fund? A. No, sir.

Q. And he was succeeded as director by Mr. Callanan? A. Yes, sir.

Q. And the date of that was about when? A. 1965.

Q. Mrs. Stieferman, among the records that you have identified, are there any minutes or records of the meetings? A. No, sir.

Q. To your knowledge, there are no such things? A. I don't have them.

Q. Among the records, are there any membership cards or— A. The Voluntary Fund Agreement cards.

Q. Yes. But is there any card that the Fund ever gave out to its alleged members? Like the card that you have if you belong to a union, or belong to this or that club?

A. No, sir.

Q. No such cards as that were ever issued, to your knowledge? A. No, sir.

Q. Now, during the period of time that you were keeping these records, were you ever asked to make a report to a [1,080] committee or to a board of directors, or to anybody, about the Fund? A. No, sir.

Q. Books? A. No, sir.

Q. Or the amount of receipts? A. No, sir.

Mr. Riddle: I believe the Government has no further questions of this witness.

The Court: Mr. Nangle?

Mr. Nangle: I have no questions, Your Honor.

The Court: All right. You may be excused.

The Witness: Thank you.

(Witness excused.)

EDWARD H. FRANKE, JR.,

being first duly sworn, testified in behalf of the defendants as follows:

Direct Examination.

By Mr. Daly:

Q. Would you state your name, please? A. Edward H. Franke, Jr.

Q. Would you keep your voice up loud enough so that everyone can hear your testimony? Where do you reside,

Mr. Franke? [1,081] A. 5715 Lansdowne, St. Louis 9, Missouri.

Q. And are you married or single? A. I'm married, sir.

Q. Now, what is your business or occupation? A. I'm a pipefitter.

Q. And by whom are you employed, sir? A. By the Thomas J. Sheehan Company, at 4120 Lindell Boulevard, St. Louis.

Q. And what position do you hold with the Sheehan Company? A. I am a general foreman at the Mayfair Riverfront Inn, on Fourth and Washington.

Q. How long have you been on that particular job? A. I have been on that job, January of 1967 I started this job, sir.

Q. And how many pipefitters do you have working under you at this time? A. Right today I have thirteen pipefitters, plus myself.

Q. I see. Now, are you a member of Local 562? A. Yes, sir, I am a member of 562.

Q. And have you ever contributed to the Pipefitters Local 562 Voluntary Fund? A. Yes, sir, I have.

Q. And for what period of time have you been contributing, [1,082] Mr. Franke? A. Ever since it's been in existence, sir.

Q. I see. Now, have you ever collected any money for the Pipefitters Fund? A. Yes, sir, I have.

Q. And was that as a steward, or a foreman, or— A. That was as a steward or as a foreman, sir; either way.

Q. Are you collecting for the Fund at this time? A. Yes, sir, I am collecting for the Voluntary Fund at this time.

Q. On the job that you are presently working on? A. Yes, sir. I am, sir.

Q. All right then. Are you making contributions to the Fund at this time yourself, Mr. Franke? A. Yes, sir, I am.

Q. Let me ask you, sir, if you are making these contributions voluntarily? A. Yes, sir, I am.

Q. Has anyone ever told you that you had to pay into this Fund? A. No, sir, no one has ever told me that I had to pay into this Voluntary Fund.

Q. And these men you collect from, have you ever [1,083] told any of those men that they had to pay into the Voluntary Fund? A. No, sir, I have never asked any man to pay into the Voluntary Fund.

Q. Now, have you ever attended any of the Fund meetings, or political meetings that they had? A. Yes, sir, I have.

Mr. Riddle: I want to—well, that is all right. Go ahead.

Q. (By Mr. Daly) Are you related, either by blood or marriage, to Mr. Callanan, or Mr. Seaton, or Mr. Lawler sitting there? A. No, sir, I am not.

Mr. Daly: I have no further questions.

What are your politics?

A. I'm a Democrat, sir.

Mr. Daly: Your witness, Mr. Riddle.

Cross-Examination.

By Mr. Riddle;

Q. Mr. Franke, on the job that you are presently conducting— A. Yes, sir.

Q. —are there any out-of-towners working on it? A. Yes, sir. At the present time, there's one out-of-town [1,084] man on this job from Local 597 out of Chicago, Illinois.

Q. How long has he been on the job? A. Sir, he's been there on my particular job two weeks. I think this starts his third week, possibly, Monday.

Q. How many others on the job with you? You say about twelve besides he? A. Twelve, besides he, and counting myself, I think there's fourteen.

Q. Who sent him out to the job to work under you? A. Well, to the best of my knowledge we have a riding superintendent, who is Mr. Glen Forristall, also a member of 562, and I was in need of an extra man, and this man had been working for Sheehan, the Thomas J. Sheehan Company, previously on another job at Monsanto, and he was sent to me then as a helping hand on the job that I was on.

Q. And his name is what? A. Robert H. Magee.

Q. You got him by asking the union hall to send him out, I assume? A. I did not ask the union hall. We have this riding superintendent that is over all the Sheehan jobs. His name is Glen Forristall.

Q. And he is a member of 562? A. Yes, sir. And he is my supervisor, so to speak, and [1,085] he sends the men to the jobs now. Sometimes he gets them from the union hall, or he might—in this case he had a job that was, oh, so to speak, maybe slowing down a little bit, and I needed a particular man, and this man was available, and that's how I got him. He sent him to me.

Q. Did he sign one of these contribution cards when he came on? A. He had signed one, sir when he came to the other jobs, sir.

Q. He had already signed one? A. Yes, sir.

Q. How did you know that? A. Because he told me he had, sir.

Q. Did you ask him if he had signed it? A. No. He said that, naturally, with all this discussion going on

about this particular case, it so happened just hear a conversation that this—

Q. That the man had already signed one? A. Yes, or I would say he contributed. I want to retract the statement here now. What he—he actually signed it, not signed, but offered to give me his particular assessment.

Q. Assessment? A. No, sir.

[1,086] Q. Not assessment, is it not? A. No, sir, it is not assessment. Contribution.

Q. Voluntary contribution? A. Yes, sir.

Q. Do you know what an assessment is? A. Yes, sir. We have assessments in our local.

Q. Assessment is a charge for the right—to pay for the right to work and to belong to a union, isn't it? A. We have an assessment, sir, and that is taken out of our pay by the contractors, an obligation to our union, sir.

Q. Sir, do you understand an assessment to be a tax or a payment that you have to pay in order to belong to the Union? A. The assessment that I pay, that comes out of the paycheck, which is my terminology of an assessment. And the other is a contribution.

Q. Why did you use the word assessment just a few minutes ago on this witness stand in front of this Court and jury, sir? A. It's a slip of the tongue, sir, is all I can say.

Q. You use it and refer to it on the job as an assessment, do you not? That is, this so-called voluntary payment, do you not refer to it as an assessment on the job, the same as you did here just a few minutes ago in front of this jury? [1,087] A. No, sir, I don't believe I do. I will tell you the reason why. On this particular sheet that I have, sir, that you keep the records on, it does not say anything about—it says Pipefitters Voluntary Fund.

Q. Voluntary Fund. That's right. That is what the sheet says, but you call it, yourself, and on many occasions, an assessment, do you not, irrespective of what the sheet says? A. No, sir. I don't necessarily agree with that, although I did make a slip of the tongue, but I do not say that I would call it an assessment. To me assessment is something that you have to, you are obligated to pay by either getting a bill for it, or someone has set this schedule up, like we'll say that you pay so much a month, but this is not the case.

Q. You say an assessment is, by your understanding, when someone sets up a scale or an amount to pay by the month for you? Is this what you are saying an assessment is? A. Or some designated—it may be by the year.

Q. It might be by the year? A. Yes, sir. It could be by any—

Q. Do you know Mr. Ed Steska? A. Yes, sir, I do.

Q. He is president of your local union, is he not? A. Yes, sir, he is.

[1,088] Q. Sir, showing you what's been received into evidence as Government's Exhibit 205, I'll ask you to look at that and see if beginning in January of 19 and 63, you began paying a fixed amount into this fund of \$1.00 per 8-hour working day? A. I believe that's correct, sir.

Q. And that amount remained in effect at \$1.00 for an 8-hour working day from January of 19 and 63 until January of 19 and 66. Is that consistent with your independent recollection of it? A. Yes, sir, I would say that's—

Q. That was a fixed, certain and definite amount, wasn't it? Fixed? A. As a Voluntary Fund, yes, sir.

Q. Yes, sir. And thereafter that certain definite and fixed sum continued to be at the rate of how much per

day for eight hours worked? A. It was then later reduced to 50 cents, sir.

Q. The assessment was reduced to 50 cents? A. No, sir. The Voluntary Fund payment was reduced to 50 cents.

Q. Yes. At that time, you decided to then voluntarily pay 50 cents a day for each and every 8-hour day that you worked? A. Yes, sir.

[1,089] Q. And you continued to pay that ever since? A. Yes, sir.

Q. Sir, before you came to the stand today, weren't you told to be careful to not call these voluntary contributions assessments? A. Sir, I—

Q. Answer my question. Were you told not to call them assessments? A. They are not assessments, sir.

Q. My question, sir, if you would answer it—answer it yes or no, weren't you told to be careful not to call them assessments? A. Yes, sir.

Q. Yes, sir. Who told you that? A. My own men.

Q. Yes, sir. And who are your own men? A. Such men as going to be, probably going to be called in this court.

Q. Sir? A. The men that are in the room, in the assembly room, sir.

Q. Other witnesses out here? A. In the assembly room, and on the job itself. Now,—

Q. These are the people who told you to be sure and not [1,090] call this an assessment? Is that your testimony to the Court and jury? A. Well, sir, I know better than ever to call this an assessment, of my own knowledge.

Q. Well, let's talk about these men that told you not to call this an assessment. When did they tell you this? A. Well, I'll tell you, I try to bear it in my mind that it is never an assessment, and that these men know this also.

Q. Well, if it is not an assessment, and it is clear to everybody that it is not an assessment, according to you why were you and your men talking about it, and why were they telling you not to call it an assessment when you got here on the witness stand? A. Sir, there is no one directly telling me not to call it an assessment. I mean it is just by way of there's been a lot of conversation on jobs, and knowing that the proper name is not assessment. I know it may be that it's been called that, but it is not the proper name for this particular Fund.

Q. You have been told that the proper name for this Fund is Voluntary, haven't you? A. Yes, sir. I have made that out on my own sheets that I kept the amounts of the Voluntary Fund. It is right up on the top, and I shouldn't have never ever used the word.

[1,091] Q. You have been told to refer to this as a Voluntary Fund, haven't you? A. Yes, sir. And it is a voluntary fund.

Q. And you have told your boys, the people working on your job, to always refer to it as a voluntary fund, haven't you? A. Yes, sir.

Q. And you get your instructions from down at the union hall to call it a voluntary fund, do you not? A. No, sir. I got a book from the union hall that says "Voluntary Fund," and that's—I mean it would just be like if I had a book for a gas bill, or anything like that. It says it right on the top of the sheet, sir.

Q. Sir, if they told you to call this book a baseball bat, even though it is a book, would you call it a baseball bat? A. No, sir, not unless it is—

Q. And calling it a baseball bat wouldn't make it that, would it? It would still be a book; is that right, sir?

Mr. Randall: Your Honor, I'll object to this as argumentative.

The Court: It is cross-examination. Let's proceed.

Q. (By Mr. Riddle) Now, sir, there was a period of time in 19 and 66—Can you see the exhibit, the chart, sir?

The Witness: I can see it pretty well, sir; yes, sir.

[1,092] Q. —a period of time in 19 and 66 that the money you were paying went for a particular purpose. Do you remember that? What is called the Callanan Gift Fund?

Mr. Daly: Your Honor, may we renew our objection? This is certainly outside of the scope of the direct.

The Court: No. It is within the purview of the direct, and other items. It will be overruled.

Q. (By Mr. Riddle) Do you remember paying into the Callanan Gift Fund? A. Yes, I do recall that.

Q. Do you recall how much for an 8-hour day you paid into that would be? A. Well, let's see. Now you got your chart there. I mean I want to be sure of the amount. When we start, it was \$2.00, and then there was—At what time did you say that this was reduced to 50 cents?

Q. Well, according to the Government's exhibit, based upon Mr. Steska's testimony, it was reduced on January 1st, or thereabouts, of 1966. A. And this was in 1966?

Q. Yes. A. Well, then I would say it would have been 50 cents, sir.

Q. Fifty cents for each 8-hour day? [1,093] A. If that time—What month in January, or what month in January would you say that—

The Court: You mean what month in 1966?

The Witness: Yes, sir.

The Court: OK.

Q. (By Mr. Riddle) That it was reduced to 50 cents? A. No. That was—Yes, reduced to 50 cents.

Q. Well, my question to you, sir, really, is if you remember paying for several weeeeks into the Fund, but it was called the Callanan Gift Fund at that time? A. Yes, I do remember that there was a gift fund.

Q. Do you know how much went into this gift fund? A. No.

Mr. Daly: Your Honor, I'd like to renew my objection to this.

The Court: He answered he didn't know.

Q. (By Mr. Riddle) Do you know what uses were made of the money that went into that Fund?

Mr. Daly: Your Honor, may my objection show continuing to all of this questioning?

The Court: No. You better object to each——

Mr. Daly: I will object to the question; out of the scope of the direct; irrelevant; not tending to prove any of the issues in this cause.

[1,094] The Court: I will overrule it.

Q. (By Mr. Riddle) Do you know what uses were made of the money that went into the Callanan Gift Fund?

A. No. I would say that offhand Lawrence Callanan was, as far as I know at any time, the Director.

Q. Well, my question, sir, do you know what the money was used for that went into the Fund? You can answer that yes or no. If you know, you can. A. No. I would say no, sir.

Q. You don't know? A. No, sir.

Q. And you never asked?

Mr. Daly: Your Honor, may I show the same objection to this question?

The Court: It will be overruled.

Q. (By Mr. Riddle) You never asked anybody what happened to it? A. No, sir, I didn't ask.

Q. Sir, this fellow Robert Magee that came on your job a couple weeks ago— A. Yes, sir.

Q. I guess he voluntarily paid the first week around that you made a collection? A. Yes, sir. Now, he did. In fact, this man just [1,095] handed me and he also told me that he had a check for me now for this Fund.

Q. This man is from Chicago, Illinois? A. Yes, sir, 597, from Chicago.

Q. He pay you \$2.00 each day for the eight hours that he worked? A. Yes, sir, that's true.

Q. And you only paid 50 cents for each eight hours you worked? A. Yes, sir, that's true. Fifty cents to the Voluntary Fund. He paid two dollars in the Voluntary Fund.

Q. Yes, sir. Did you tell him how much you were voluntarily contributing? A. No, sir, I did not.

Q. How did he know to voluntarily contribute \$2.00 into the Fund last Monday morning, if you know? A. I would say due to the fact that he had worked in this area through our Local for some time, and surely he had paid into the Voluntary Fund at Monsanto, because I would assume—

Q. How do you know that? A. Well, I would just say he—

Q. Is it a fact that if he hadn't paid into the Fund at Monsanto, he wouldn't have been transferred over to your job? [1,096] Is that the reason you know it? A. No, sir. No, sir, I would not ever agree with that.

Q. Just tell the jury how you knew that he paid into the Fund over at Monsanto? A. Because, sir, when he came he had gotten transferred from that particular job, and he owed me a week of Voluntary Fund, or to the—

Q. Owed you a week of Voluntary Fund? A. Owed it, yes, sir, from the previous week. In other words, here's what would happen. I collect every two weeks for this Voluntary Fund.

Q. Why do you collect every two weeks? A. To try to make the bookkeeping for the Fund—I mean you try to keep it simplified as much as possible.

Q. Yes, sir. Well, go ahead. You were saying how you knew that he paid on the Monsanto job. A. Well, surely the man that comes with \$20.00, which would have been for two weeks, he knew at the Monsanto job he was paying the particular Voluntary Fund, or he would have never come to me and handed me \$20.00 just for no reason at all.

Q. You say that he owed you for two weeks over at Monsanto? A. No, sir.

Q. What did you say about him owing you for? [1,097] A. Well, now you understand the week that he came, this Monday, every other Monday that I—

Q. Go around and make your collections? A. Get the Voluntary contributions, and he gave me \$20.00, which would be, actually he was only with my particular job—

Q. He would have only owed you \$10.00 for that? A. Yes, sir. That is true.

Q. So he was in arrears \$10.00 from the other job? A. Yes, sir.

Q. Did you know he was in arrears from the other job before you collected the twenty bucks from him? A. No, sir.

Q. Now, when he paid you his arrears, or what he owed you from the other job, you accurately entered that on the report that you made out for that collection period, didn't you? A. I enter all contributions the same way, sir.

Q. Now, what about Magee? You put Robert Magee. Then over to the side of his name you put the amount that you collected, \$20.00. A. No, sir. I put down on the particular sheet, on his Voluntary sheet, two lines for my own people that are 562 men, when I speak of that, and then I put Robert H. Magee, and put [1,098] down the hours, and \$20.00, but I also made a note that ten of these would be, a week of this time, so to speak, was worked at, or for this Voluntary Fund, was from the Monsanto job.

Q. Now, you were real careful to put down there that this man, being the good pipefitter that he was, you were very anxious to put down on the sheet that he had not only paid you for the current week, but he had caught up for the past week. You wanted that made clear from your report? A. Well, how could I do it any different, sir, when the man——

Q. Yes, sir. A. ——gave me, without me saying anything, \$20.00? I mean actually the assessment, or the voluntary contribution for that particular item would have been ten.

Q. Yes, sir. A. And he gave me twenty.

Q. Yes, sir. A. And in this case, it was a check, sir.

Q. Yes, sir. Sir let me ask you this: When you go back to the witness room, will you tell your friends to be careful about using the word assessment?

Mr. London: I will object to that.

The Court: Be sustained. Don't——

Mr. London: Ask it be stricken, and the jury to [1,099] disregard it.

The Court: All right. Any redirect, Mr. Daly?

Mr. Daly: None, Your Honor.

The Court: We will have our morning recess. You will be excused.

(Witness excused.)

The Court: Members of the Jury, bear in mind the admonition I have given you heretofore.

(Following a brief recess, the further following proceedings were had before the jury:)

CHARLES CARPENTER,

being first duly sworn, testified in behalf of the defendants as follows:

Direct Examination.

By Mr. London:

Q. State your name, please, sir. A. Charles Carpenter.

Q. Mr. Carpenter, where do you live, sir? A. 37 Auburndale, in the County, St. Louis County.

Q. Are you a married man, sir? A. Yes, sir.

Q. Do you have a family? A. Yes, sir.

Q. What is your profession or occupation, Mr. Carpenter? [1,100] A. I'm a pipefitter and a foreman.

Q. And are you a member of any union, sir? A. Yes, sir; 562.

Q. And that's the Local 562; is that correct, sir? A. Yes, sir.

Q. How long have you been a member? A. It will be forty-four years the 20th of January.

Q. All those years with Local 562? A. Yes, sir.

Q. Are you on a job now, sir? A. Yes, sir.

Q. Where are you working now, sir? A. At Proctor & Gamble Soap Company.

Q. Are you familiar, sir, with an organization called the Pipefitters Voluntary Fund, or with a longer name, but— A. Well, some years; quite a bit. I know all—not all about it, but I know most about it.

Q. All right, sir. You say you are a foreman at the job, sir? A. Yes, sir.

Q. Do you contribute to the Voluntary Fund? A. No, sir.

Q. Have you ever contributed to the Voluntary Fund? A. I may have the first or second week.

[1,101] Q. When would that have been, sir? A. Oh, a long time ago. I couldn't tell you exactly.

Q. Did you ever sign a Voluntary Fund card? A. No, sir.

Q. How many jobs have you lost, or how many hours have you lost from work as a result of not contributing to the Fund?

Mr. Riddle: I object to the form of that question.

Mr. London: I will rephrase the question, Your Honor.

The Court: All right.

Q. (By Mr. London) Have you lost any job, sir, or been discriminated against because you do not contribute to the Fund?

Mr. Riddle: I will object to that as calling for a conclusion.

The Court: Conclusion. Be sustained.

Q. (By Mr. London) Have you been working steadily, Mr. Carpenter? A. Yes, sir.

Q. How long have you been working steadily, sir? A. I'd say for forty years.

Q. Forty years? A. Yes, sir.

Q. Continuously? A. Yes, sir:

Q. And during this time, you indicated that you have [1,102] given to the Fund, have you, once or twice when it first started? A. That is about all, and I'm not real positive about that.

Q. All right, sir. As a foreman, do you receive any additional pay over and above regulation union scale?

A. Well, I get foreman's pay, which is more than a journeyman's pay. Is that what you mean?

Q. Yes, sir. A journeyman's pay is how much, sir?

A. Five sixty, or somewhere in that neighborhood.

Q. And as a foreman, sir, do you receive 50 cents an hour in addition to that? A. Yes, sir.

Q. And the local members of 562 who contribute to the Fund normally contribute 50 cents a day; is that correct, sir? A. I believe it is; yes, sir.

Q. And you receive 50 cents an hour above scale? A. Yes, sir.

Q. But you don't contribute 50 cents a day? A. No, sir.

Q. Anybody ever come to you, or put any pressure on you to give to this Fund?

Mr. Riddle: I will object to that.

The Court: Be sustained as to the form of the [1,103] question.

Q. (By Mr. London) During the time, sir, that you have not contributed to the Fund, did Mr. Callahan ever approach you and ask you to give to the Fund? A. No, sir.

Q. During the time, sir, that you have not contributed to the Fund, has Mr. Lawler approached you and asked you to give to the Fund? A. No, sir.

Q. During that same time, sir, has Mr. Seaton ever approached you and asked you to give to the Fund? A. No, sir.

Q. Anybody on their behalf, or on behalf of the Union approached you and asked you to give to the Fund? A. No, sir.

Q. Do some of the men where you work contribute to the fund? A. Yes. I'd say more than half. I wouldn't know the percentage, but I know some of them do.

Q. You are the foreman at that job; is that correct, sir? A. Yes, sir.

Q. Do you collect for the Fund down there? A. No, sir.

Q. Any of the men ever come to you and ask you to take [1,104] their contributions down to the Fund office at the union hall? A. Yes, sir.

Q. Do you take them down to the office? A. No, sir.

Q. Do you have any reason that you do not take them down to the office? A. I think most of them are younger than I am, and they can take it down easier than I can.

Q. You tell them to take the money themselves? A. Yes, sir.

Q. Do you have any reason why you don't contribute to the Fund? A. Yes, sir.

Q. Would you tell the Court and jury what those reasons are? A. Well, I don't believe, like Senator Long, I wasn't in favor of him, and a few things like that, but the main thing, I cannot afford it. I have too many debts.

Q. In other words, you disagree with some of the politicians that the Fund supported? A. Yes, sir.

Q. And you feel that you can use your money better elsewhere? A. Yes, sir.

[1,105] Q. Do you know what an assessment is, Mr. Carpenter? A. Yes, sir.

Q. An assessment is, we understand it is something you must pay in order to belong to the Union or to work; is that correct, sir? A. Well,—

The Court: You asked him. Don't you think you ought to let him answer?

Mr. London: I am sorry, sir. Did I misphrase the question?

The Court: You didn't misphrase it. You merely stated what your opinion was.

Q. (By Mr. London) Sir, what is an assessment? A. I think it is money that we are obligated to pay to keep our Local intact and pay the bills, and so forth and so on; keep the Union officers' salary going, and pay the rent, and things like that.

Q. Does the Voluntary Fund have assessments? A. No, sir.

Mr. London: That's all.

The Court: All right. You may inquire. Just a minute. Does anybody want to ask him any questions?

Mr. Daly: No, Your Honor.

Mr. Randall: No, Your Honor.

[1,106] The Court: You may inquire.

Cross-Examination.

By Mr. Riddle:

Q. Sir, you said that you knew something about this Fund, but you didn't know all about it? A. Yes, sir.

Q. Tell us what it is that you do know about it. A. Well, mostly from what I read in the paper, and hearsay on the job, which is some political donations, and they bought wheelchairs, I know, for one person that couldn't walk any more, and they bought a lung for people that

needed it, one of these decompression chambers, and things like that. That is just about all I do know of it.

Q. Have you seen this decompression chamber? A. Yes, sir.

Q. Did you see what was written on the side of it? A. I did, but I don't remember. I remember the words 562 was on it. I saw it at the Sport Show.

Q. Yes, sir. You say this was bought out of the Fund? A. I believe it was. That's why I say, I don't know too much about it.

Q. The one that you saw out at the Sport Show, did it have anything about being contributed by the Voluntary Fund? A. Well, I couldn't tell you for sure.

[1,107] Q. It had Local 562 on it? A. I am pretty sure that is why I recognized it; yes, sir. And that was my conclusion it came out of that Fund.

Q. Why do you think it came out of that Fund, instead of the regular Union funds, if it was labeled 562? A. Well, I don't know. You just have to make up your mind to something, and that was my conclusion.

Q. Sir, you say you work out at Proctor & Gamble? A. Soap Company.

Q. Soap Company? A. Yes, sir.

Q. How long have you been out at the Proctor & Gamble Soap Company? A. This is my third week.

Q. Does the type of work you do have to do with construction, your job? A. Yes, sir.

Q. What kind of a job were you on before Proctor & Gamble? A. I was at the Old Fairgrounds Hotel. They are remodeling that for a nursing home.

Q. Sir, these people that are on your job now at Proctor & Gamble, how many are under your supervision? A. There's only three there besides myself. That is a [1,108] total of four.

Q: Who collects the money from them each week? A: I wouldn't have any idea. I imagine they take it in themselves, except the assessment is taken out of the checks.

Q: Do you know whether or not these people pay into this Fund? A: No, sir, I do not, except I hear them talking. I know one of them says he does, but I don't know whether he does or not. I know two of them say they do.

Q: Two of them say they do? A: Yes, sir.

Q: Sir, I recall your testimony to be that at one time earlier you had paid into the Fund? A: I'm not positive, but I do believe I paid one or two weeks, and I wouldn't say for sure. It might have been three weeks. It might not have been any time, but I do believe I paid one or two weeks.

Q: About when would this have been? A: Well, I'd say three or four years ago, to the best of my knowledge.

Q: What job were you working on then? A: On the Regency Nursing Home, on West Pine.

Q: Regency? A: Yes, sir.

[1,109] Q: Nursing Home on West Pine? A: 4560 West Pine.

Q: Were you a foreman on that job? A: Yes, sir.

Q: Who did you pay your money to? A: I didn't pay. You mean the Voluntary money? I didn't pay any.

Q: Well, I thought you said you recalled that you had paid? A: Well, I don't know where I was when I paid those one or two weeks, if I had paid it. I can't remember. It might have been on that job. It might have been previous, before that.

Q: Well, on the times that you did pay, can you tell the jury and the Court how you paid it? A: I believe I sent them a check, to the best of my knowledge. That would be my most honest answer that I could give you.

Q: Mailed it in to the hall? A: Yes, sir.

Q. Do you recall the amount of that check, or those checks? A. No, I don't.

Q. Sir, about that time, did you sign one of these [1,110] Voluntary Cards? A. No, sir.

Q. Did you ever sign one? A. Not that I know of. In fact, I'm almost positive I never.

Q. Sir, at the time that you made these two or three payments, do you recall how you made your check out? A. I imagine Voluntary Fund, but I wouldn't know.

Q. Sir, what caused you to make those two or three payments? A. Well, I just figured that it was a good cause, and I realized after making, if I made a lot of them, that I would—my balance of my budget wouldn't come out right, so I just stopped.

Q. Did you have a conversation with anybody about paying, at the time you did send them? A. No, sir.

Q. How did you find out that there was a Fund? A. Well, I couldn't tell you. I just don't know. I guess from talking to the men on the job is all I can remember, but I don't remember. That's probably been five or six years ago, to the best of my knowledge.

Q. Well, is this your recollection now as to when it was, five or six years ago? I recall you testified a few [1,111] minutes ago that it was three or four years ago.

A. Well, it's been quite a while ago. It was, if I knew when I finished the job at Regency. I could kind of gather back, but I'm not positive of that at all. I'd say it's been three to five, maybe six years ago; somewhere in that category. If it was some important event, I'd probably remember it.

Q. Sir, have you ever talked—do you know Mr. Callan? A. Yes, sir.

Q. Do you know Mr. Lawler? A. Yes, sir.

Q. Do you know Mr. Seaton? A. Yes, sir.

Q. How long have you known Mr. Callanan? A. Well, ever since he's come into our local.

Q. Are you related to him? A. No, sir.

Q. To Mr. Lawler? A. No, sir.

Q. To Mr. Seaton? A. No, sir.

Q. You have been a member of this Local for forty-four years? Or a member of— A. I joined the 20th of January, in 1925. I think [1,112] that is forty-four years; will be forty-four years this January, I believe.

Q. Sir, what size jobs have you usually been in charge of? A. Well, the Regency Nursing home, I think was sixteen or seventeen stories, and before that I was on the Hanley Towers, which was seventeen stories.

Q. How many men in your crew on those jobs? A. Well, it would vary, I would say at the most about fifteen or sixteen men; maybe twenty.

Q. Did you ever collect this money from any of your people at any time? A. No, sir.

Q. Was there a steward on the job with you at any time that did do this collecting? A. There was for about a month on the Regency, and what he did, I don't know.

Q. Sir, do you know, of your own knowledge, of anybody else of all the membership, that doesn't pay into the Fund? A. Do I know of some? Yes, sir.

Q. Can you give me their names? A. Yes, sir. Joe Unger.

Q. U-n-g-e-r? A. Yes, sir.

[1,113] Q. Who else? A. Art Albert.

Q. Albers? A. Alberts.

Q. What is his first name? A. Well, they call him Art. I guess it is Arthur.

Q. All right. A. And I know several—there's George Taylor. Now, those are men in my shop, in our shop,

rather, and I wouldn't be sure of anybody else, but I have talked to a lot of them who have told me they didn't pay it. Lots of them.

Q. When you talk about your shop, what do you mean by that? A. Well, I have been with this shop, Guaranteed Engineering Company, for twelve or thirteen years, somewhere in that neighborhood.

Q. Are they your immediate employers? A. Yes, sir.

Q. And what is their name? A. Guaranteed Engineering Company. Heating and engineering company.

Q. Now, what type of work do they do, this Guaranteed and Engineering Company? A. They do mostly all piping work, and they also go [1,114] under another name of Dan Siegel & Associates, which is strictly an engineering firm, which I have nothing to do with. Dan Siegel Associates.

Q. You have been with them how long? A. I would say twelve, maybe thirteen, and possibly fourteen years.

Q. So you are on their payroll? A. Yes, sir.

Q. Does your job differ from other people who are members of Pipefitters 562, in that they are assigned to various construction jobs and to various companies from time to time from the union hall? How does your job differ? A. None that I know of. Nobody works direct out of the union hall, that I know of. They all work for a contractor, to the best of my knowledge.

Q. Did you work for this one company for twelve years? A. Yes, sir.

Q. Who did you work for before then? A. Well, I worked mostly out through the state on powerhouse work, usually for out-of-town contractors.

Q. Do you attend the Union meetings? A. Not too much; no.

Q. How many have you attended in the last five years? A. I'd say two or three.

[1,115] Q. Was there a particular reason, or particular business matter that came up on those occasions that caused you to go? A. There possibly was some reason of interest; yes, sir.

Q. Do you recall what that was? A. One of them, there was a possibility of a strike. I went several times during that period. And other times I just went because I probably didn't like it.

Q. You gave me the name of Alberts and Taylor and Unger. Can you give me any others? A. Not to be sure of; no, sir. I have run across quite a few though, but I couldn't tell you who they are now.

Q. Do you know Robert Sanders? A. No, sir. I know a Ralph Sanders.

Q. Do you know Al Rosen? A. I did a long time ago. I think he's a pretty elderly man, but I do believe I have known him.

Q. Do you know Gerald Roberts? A. No, sir.

Q. William Reeves? A. I don't believe so.

Q. Ernest Pleskit? A. Not that—No.

Q. Edward Nagel? [1,116] A. No, sir.

Q. Patrick Murphy? A. I am not sure. I would say no, but I'm not positive.

Q. John C. Laird? A. No, sir.

Q. Henry Klinge? A. No, sir.

Q. Lester Weidlich? A. No, sir.

Q. George Taylor. Now, you gave me that. A. Yes, sir.

Q. Ronald Seabolt? A. No, sir.

Q. Elmer Geiger? A. I don't believe—I might know him. I'm not sure.

Q. Ray Goldkamp? A. No, sir.

Q. Charles Good? A. I believe I know him; yes, sir.

Q. Vic Hoemeke? A. No, sir.

Q. Frank Kasal? A. No, sir.

[1,117] Q. Jerry Kavanaugh? A. I don't know whether I know that man or not.

Q. Do you remember a Robert Albers? A. Yes, sir.

Q. Do you know a Thomas Albers? A. Oh, wait a minute. I know an Art Alberts.

Q. Well, this is a different one. A. No, I don't know him.

Q. Or Thomas Albers? A. No, sir. You know, when I say no, they may have worked for me even some time, but I don't remember the names, because I have a lot of people that come up and say, "Don't you remember me? I worked with you on such and such a job?" and I had forgotten them, but some of them I do remember. I remember their faces and don't remember their names sometimes, too.

Q. Sir, how old are you? A. I'll be sixty-five the 9th of this next June.

Q. Do you have any financial interest in the engineering company out there, the one that you work for? A. No, sir.

Mr. Riddle: I believe we have nothing further to ask this witness at this time.

Mr. Randall: I'd like to ask him one question at this [1,118] time.

Redirect Examination

By Mr. Randall:

Q. Do Union rules prohibit you from having a financial interest in the company, don't they, sir? A. Yes, sir.

Mr. London: One question.

Redirect Examination.

By Mr. London:

Q. Mr. Carpenter, can you tell us, roughly, how much income you earned as a pipefitter last year? A. Yes, sir.

I looked it up last night, and it was right at the thirteen thousand bracket.

Mr. London: Thank you, sir.

Recross-Examination

By Mr. Riddle:

Q. Sir, do you have a retirement date? A. I am going to retire the end of next year, if it is possible.

Mr. Riddle: All right. We have nothing further.

Mr. Randall: Nothing further.

The Court: All right. You may be excused.

(Witness excused.)

[1,119]

VICTOR HOEMEKE,

being first duly sworn, testified in behalf of the defendants as follows:

Direct Examination.

By Mr. Randall:

Q. Mr. Hoemeke, would you state your full name, please, sir? A. Victor A. Hoemeke. It is pronounced either—it has two pronunciations. Some people pronounce it Höemeke, and some Hoemeke, so you will have to forgive me if I change once in a while on that.

Q. All right. And where do you live, Mr. Hoemeke? A. 4307 Grasso Lane, Affton.

Q. And what is your employment? A. What is that?

Q. What is your job? Your occupation? A. My job is usually termed a riding boss for C. J. Moritz Company. It is, at the present time the title is area foreman, because they have more than eight men and several foremen.

Q. Now, sir, how long have you held your present job? A. Just as this area foreman?

Q. Yes, A. Since 1960.

Q. And how long have you been with this company on the [1,120] last stretch, or the last time that you have been with them? A. Since 1960.

Q. And prior to that time, where did you work? Immediately prior? A. Immediately prior, I worked six months at Anheuser-Busch brewery.

Q. Prior to that time, where did you work? A. I worked for C. J. Moritz Heating Company from 1940 to 1959, when I went to the brewery.

Q. Did you choose to shift to the brewery at that time? A. I asked at the union hall if there was an opportunity to go to Busch's brewery, I would appreciate it, because I was having some heart trouble, and the job down there was easier than the aggravation on the outside.

Q. And did they send you to the brewery? A. Yes, they did, the first opportunity they had.

Q. And did you ask to come back with your company? A. I did not ask to come back. Mr. Moritz, Sr., who is the president of the company, called me and asked me if I would come back with them, and I said, "Well, let me check with the union hall first, and let's make some arrangements that it is worth my while," and I asked them at the union hall, after I discussed the thing with Mr. Moritz, I asked them at the union hall if it would be permissible, and they said, [1,121] "Yes. We don't stop anybody if they can get a position of that kind. Go ahead."

Q. And how much did you earn last year, sir? A. In the vicinity of \$14,000.

Q. Now, Mr. Hoemeke, have you ever contributed to the Voluntary Political Fund? A. Not as a political contribution. If memory serves me right, I gave a hundred dollars to the Fund in 1963, but I didn't—at the time it looked like a strike was imminent, and there was talk that they were going to have a strike fund for some of

the less fortunate members who possibly couldn't stand to be off for any length of time because of, maybe, the size of their family, or some other reason, so I went down and gave a hundred dollars to the Fund.

Q. Is that the only contribution you have ever made to the Fund, of one hundred dollars? A. Right; that's right.

Q. Sir, has anyone, any officer, or any business representative of the Union, ever asked you to contribute to the Fund? A. No.

Q. Has anyone ever spoken to you about your failure to contribute to the Fund? A. No.

[1,122] Q: Now, on your jobs, the men that you have worked for, worked under you, have you collected money for the Fund from those people? A. Never have. Never have.

Q. Have you had a steward on your jobs? A. No, we have never had a steward appointed, because we work mostly jobs where there's two, three men employed. The firm I work for does mostly school buildings. We have two or three men on a job, maybe sometimes six, but we have never had a steward appointed by the hall to collect any monies of any kind.

Q. I see. And do you act as the steward when there is need for a steward? A. Well, there are jurisdictional things come up, possibly between the trades. I am probably a little more versed than the rest of the fellows in our employ, so I will tell them what the ruling is on the thing, and if it is a little more than that, or if the trades will not agree, then I will usually say to the man who is a foreman on that particular job, "I think you better call the hall and find out what the ruling is, or if you need assistance, have a business agent come out and give you assistance.

Q. Do you know whether the men on your job contribute to the Fund or not? [1,123] A. I couldn't say for sure they

do. I have heard the fellows say, "I think I'll go down Saturday and pay some money in the Voluntary Fund," or, "I'll go down and see Mr. Burke about stamps in their book," or something like that, but, no, actually I have never discussed it with any of them.

Q. I see, sir. And how long have you been a member of Local 562, sir? A. Since 1940.

Q. And how old are you? A. Forty-eight.

Q. And do you have a family? A. Yes. I have one daughter.

Q. Sir, have you ever had any men under you who were non-members of Local 562? A. You mean fellows from out of town?

Q. Yes. A. Yes, I have some right now.

Q. Have you ever taken into consideration in any way the work that you give to your men, whether or not they were contributing to the Voluntary Fund? A. No, because primarily my job is trying—

Mr. Riddle: I want to object to that as not being responsive to the question.

The Court: All right. Answer the question. Do you [1,124] know what the question was?

The Witness: Would you repeat it, please?

Q. (By Mr. Randall) I said have you ever taken into consideration the fact as to whether or not the men were contributing to the Voluntary Fund in any way in handing out work to the people that are under you? A. No, sir, because primarily—

Mr. Riddle: I will object to the balance of that. His answer has been no. I ask that the rest of it would be non-responsive.

The Court: I think he can explain his answer.

Q. (By Mr. Randall). Would you explain your answer, please? A. Yes. Primarily in the position I am in, I feel that I owe this much to the company that employs me, that I have to try to see that they realize a profit on their contracts, and I use the men to my discretion, as I think best in making a profit on these contracts that the company has entered into.

Q. And has anyone from the Local ever spoken to you about this matter of how to use men? A. No.

Mr. Randall: That's all.

The Court: Anybody else?

Mr. Daly: No, Your Honor.

[1,125] The Court: All right. Mr. Riddle.

Cross-Examination.

By Mr. Riddle:

Q. Sir, you say you have been a member of the Local since 19 and 60? A. '40.

Q. '40. And you went out to Anheuser-Busch when? About 19 and 60? A. 1959.

Q. 1959. What kind of work were you doing before you went out to the Busch brewery? A. I was working as a foreman for C. J. Mortiz Heating Company, as a pipefitter on various school jobs and other contracts they had.

Q. Now, you mentioned that there was some reason for your wanting to work out at Anheuser-Busch. Did it relate to a heart attack that you had about that time? A. I am troubled with hardening of the arteries, and that was one of the reasons I went down there.

Q. When you took this job, or got the job down at Anheuser-Busch, did they hire you, or did the union hall send you down? A. The union hall sent me down, but it is up to Busch's discretion whether they want to hire you or not.

[1,126] Q. All right. Well, how did you find out about the job there at Anheuser-Busch? A. There was no job. There wasn't no job. I knew there was pipefitters working down there. My father was a foreman down there for years and years. The way they do, when they need men, they call the union hall, and actually from the time I requested the opportunity to go down there until the time I actually got called to go down and take the physical examination, was, if memory serves me right, was in excess of a year.

Q. Sir, at the present time, just what type work are you doing down there? A. Where? I am not at Busch's.

Q. Well, where you are working now? A. At the present time, I spend about three hours a day in the office lining up tools and equipment, materials that have to go out on the jobs, and the rest of the time I spend going around the jobs and see that the men are interpreting the plans right and installing the jobs correctly, and see that they are getting the work done.

Q. All right. Sir, are you familiar with what is referred to as the Voluntary Contribution Card? Did you ever see one of them? A. Yes, I saw one of them; um hmm.

[1,127] Q. When did you see one? A. Oh, one day I went over to the union hall to talk to Mr. Burke about other matters, and I saw one laying there, and I read it.

Q. Is that the only one you have ever seen? A. Yes.

Q. How long ago was that? A. Well, I don't know; possibly a year ago.

Q. Sir, I'm not sure about the time sequence here. You began down at Busch's in 1959, and you stayed there until what date? A. Until June of 1960.

Q. All right. And then since June of 1960— A. I have been in the employ of C. J. Moritz Company.

Q. C. J. Moritz? A. Moritz. M-o-r-i-t-z.

Q. How many pipefitters do you have under your supervision? A. At the present time, we have sixteen, I am quite sure.

Q. Sixteen? A. Right. It will vary between fourteen and twenty-six, twenty-five, something like that.

Q. Now, do these sixteen people pay into this Fund, as [1,128] far as you know? A. I couldn't say.

Q. You don't know? A. No, I don't know.

Q. At the present time, are any of these sixteen members of a local other than 562? A. Yes.

Q. How many of them? A. I believe two of them are.

Q. Do you recall their names? A. Yes. One is a gentleman by the name of John Frain.

Q. How is the last name spelled? A. F-r-a-i-n. And the other one is John Greer, G-r-e-e-r.

Q. What locals are they members of? A. Offhand I couldn't say, Mr.—

Q. Do you know if any of these people, any of these sixteen that work under you, pay into the Fund? A. I feel sure that some of them do, but I couldn't just name them. I don't know which ones do and which ones don't.

Q. Well— A. To me, that has been a personal affair whether a man wants to give to it or not. I don't say, "Do you give to it?" Or, "Don't you give to it?" I don't care. I don't give to it, [1,129] and I have my reasons why I don't give to it.

Q. Why don't you give to it? A. Because I don't think that money spent with politics is going to mean that much in outlawing or getting rid of bad labor laws, and it is my personal opinion, so that is why I don't give to it.

Q. Have you expressed your opinion before along that line, and just as you did now? A. To whom? No one ever asked me this question before.

Q. My question is have you ever expressed your opinion just the way that you did in front of this jury and Court?

A. No.

Q. You never have? A. No.

Q. You say your father before you was a pipefitter? A. Right.

Q. For how long? A. Ever since the local union was chartered here in St. Louis by United Association, until the day of his passing away.

Q. Do you know how long that—when was it chartered? A. I couldn't say for sure, sir. I think it was 1909 or 1908. I'm not positive.

Q. Sir, have you attended any union meetings within the [1,130] last few years? A. No, not since the pipefitters were on strike.

Q. That's the last one you have attended? A. Right.

Q. And that was in 1963? A. Right.

Q. Do you have a regular journeyman pipefitter's card? A. Right.

Q. You say you made a one hundred dollar contribution? A. Yes.

Q. What was your purpose for making that? A. Well, at the time it looked like a strike was going to be imminent. There was hearsay talk; there was talk amongst the men that they were going to use part of the Voluntary Fund to help some of the fellows through the strike that had large families, or had large doctor bills, or something like that, so I thought, well, I've always been fortunate, so I will go down and make a contribution. At least it will help, might help some brother member through a hard time.

Q. When you went down to make a contribution, who did you talk to about it? A. I talked to the secretary, Mr. Burke. I asked him who received it.

[1,131] Q. Beans Burke? A. Right. I asked him who I was to pay it to, and, truthfully, I don't remember who I paid it to, but it was, I believe it was—I couldn't say now for sure if it was upstairs—I believe it was upstairs.

Q. Was it with your check? A. Yes.

Q. And this was for, from your point of view, for strike benefits for your fellow members? A. That's right.

Q. You paid into the Fund, and not into a union Welfare Fund? A. No, no. This was into the Voluntary Fund.

Q. When you were down there, did you talk to Mr. Burke about why you were paying into it at that time? A. No, no. I didn't feel like if I want to give something, I don't think I have to discuss it with anyone. I don't discuss any other contributions with anyone, and if I have my reasons for it—

Q. You just gave him the hundred dollars? A. Right.

Q. And didn't tell him why you decided to give it? A. No.

Q. He didn't ask you? [1,132] A. No.

Q. Did you get a receipt? A. No.

Q. Did you keep your cancelled check? A. I suppose it is at home.

Mr. Riddle: The Government has nothing further to ask this witness.

The Court: Any other questions?

Mr. Daly: No, Your Honor.

Mr. Randall: No further questions.

The Court: Step down.

(Witness excused.)

LESTER WEIDLICH,

being first duly sworn, testified in behalf of the defendants as follows:

Direct Examination.

By Mr. Daly:

Q. Would you state your name, sir? A. Lester Weidlich.

Q. Would you keep your voice up? Where do you reside, Mr. Weidlich? A. At Rock Hill, Missouri; 1017 O'Day.

Q. And are you a married man? A. Yes, sir.

[1,133] Q. What is your occupation? A. I'm a service fitter.

Q. And by whom are you employed? A. My employer is Hussmann Distributing Company.

Q. How long have you been employed by them? A. Thirteen months.

Q. For whom did you work prior to this employment? A. National Food Stores.

Q. And how long were you with National Food Stores? A. Fifteen years.

Q. Fifteen years. Now, are you a member of Local 562? A. Yes, sir.

Q. How long have you been a member of Local 562? A. Since '48, I think.

Q. Are you a journeyman member? A. Yes, sir.

Q. All right. Now, are you familiar with, or have you heard what is known as the Voluntary Fund, or the Political Fund? A. I've heard about it.

Q. Now, let me ask you if you have ever contributed to this Voluntary Fund? A. No, sir.

Q. And have you worked steadily for the sixteen years that you have been a member of 562? [1,134] A. Every day.

Q. Have you worked overtime? A. Some.

Q. And——

The Court: If he worked since '48, it's twenty years ago.

Mr. Daly: I think he said he's a member for sixteen years.

The Court: He said he was a member since '48 here.

Mr. Daly: I am sorry. Now, you say that you have never given to the Fund at all; is this correct?

A. I have never given to it; no.

Q. Did you ever sign a Voluntary Card? A. No, sir.

Q. Did anyone ever ask you to give to the Fund? A. No, sir.

Q. Did anyone ever come out and ask you why you were not contributing to the Fund? A. No, sir.

Q. Has the fact that you have not given changed your situation as far as the Local is concerned? A. No, sir.

Q. Why do you not give to the Fund, Mr. Weidlich? A. I was never asked, really, to give, and I didn't [1,135] care to contribute, I guess.

Q. You feel like you just don't care to contribute, is that right? You don't care to contribute? A. Yes.

Q. What do you earn per year? A. Eleven five.

Q. \$11,500? A. (Indicating yes.)

Mr. Daly: I have no further questions.

Cross-Examination.

By Mr. Riddle:

Q. Mr. Weidlich, you say you are a service fitter? A. Yes, sir.

Q. What does that name mean? Is that a particular classification of pipefitters? A. We service rather than install.

Q. You service rather than install? A. (Indicating yes.)

Q. Now, are you different from the construction pipefitters? A. Not necessarily. There's no category that places us different. We just call ourselves that, I think. A service man will call himself a service fitter.

Q. You don't follow construction projects? [1,136] A. That's right.

Q. You do not follow them? You don't go down to Pilot Knob, or up to Louisiana, Missouri, or— A. No. I want to clarify that. I would if there wasn't service work to do. Then I could take those jobs.

Q. Well, do you work alone, or—Are you the only service fitter at the place where you work? A. No. There's about ten.

Q. About ten others? A. (Indicating yes.)

Q. During the time that you were at National Food Stores, about how many of your service fitters were there?

A. There was three.

Q. Three. And you were there for about fifteen years?

A. I think so.

Q. Sir, the others who are out there working with you, are they under your supervision? A. No.

Q. I see. I didn't make a note of it. You said there were how many other pipefitters working with you at Hussmann? A. There's about ten in the service department, and then there's maybe ten or twelve in the installation department.

Q. Well, this is not a construction job at Hussmann?

A. That's right, it is not.

[1,137] Q. It is just a maintenance job? A. That's right.

Q. Is there a steward on the job or— A. Yes, we have a steward.

Q. Who is he? A. His name is—You want his name?

Q. Yes. A. Eddy Joyce.

Q. Eddy Joyce. Sir, have you heard—Well, strike that. Do you attend the union meetings? A. Most of them.

Q. You do? A. (Indicating yes.)

Q. Have you ever attended a meeting when the Political Fund was discussed? A. Yes, sir.

Q. Do you remember where that meeting was held? A. I'm not sure.

Q. Sir, of your own knowledge, do the other ten people in your service department contribute into the Fund. A. I really wouldn't know if they do.

Q. Nobody has ever asked you? A. No.. Nobody has ever asked me.

Q. Sir, are you familiar with the little card that is [1,138] called a Voluntary Political Fund Card? Did you ever see one of them? A. First one I ever saw was last, just a week ago. I hadn't never offered one to sign.

Q. Where did you see one about a week ago? A. I saw one at the lawyer's office.

Q. All right. And you never signed one of them? A. No, sir.

Q. And was never asked to sign one? A. That's right.

Q. Well, you knew of the existence of the Political Fund, I assume? A. Yes, I did.

Q. Is there any particular reason why you never contributed into it or paid into it? A. It was voluntary, and I chose not to contribute.

Q. Sir, do you have a foreman out where you work? A. Yes, sir.

Q. Who is your foreman? A. His name is Frank Aldridge.

Q. Frank Aldridge? A. (Indicating yes.)

Q. Is he a pipefitter? A. Well, he's our riding foreman and riding boss.

[1,139] Mr. Riddle: All right, sir. I have nothing further of this witness.

The Court: All right.

Redirect Examination.

By Mr. Randall:

Q. Sir, does a service journeyman pipefitter receive the same pay as a building journeyman pipefitter? A. Oh, yes.

Mr. Riddle: Nothing further.

The Court: You may be excused.

(Witness excused.)

ELMER F. GEIGER,

being first duly sworn, testified in behalf of the defendants as follows:

Direct Examination.

By Mr. London:

Q. State your name, please? A. Elmer F. Geiger.

Q. Where do you live, Mr. Geiger? A. 9762 Big Bend, Crestwood.

Q. Do you own your home out there? A. Yes, sir.

Q. Married man? A. Yes, sir.

[1,140] Q. Family? A. Just the wife.

Q. Mr. Geiger, what is your occupation? A. Pipefitter, 562.

Q. You are a member of Local 562? A. Right.

Q. How long have you been a member, sir? A. Thirty-four years.

Q. Where are you working now? A. For Condaire Company.

Q. Where is that? A. At—I think it is 3445 Gravois.

Q. How long have you been on that job? A. I have been with that company five years.

Q. On the same location where you are now, on the same job, or do you move around? A. No, different jobs.

Q. Mr. Geiger, are you familiar with the Pipefitters Voluntary Fund? A. Yes, sir.

Q. Are you familiar with a card of the Fund, contribution card, or Contribution Agreement? A. Yes, sir.

Q. Did you ever sign one of those? [1,141] A. Quite a while ago, I think. I don't remember whether I have or not.

Q. Did you ever contribute to the Fund? A. Yes, sir.

Q. When did you contribute to the Fund? A. Up until about three years ago.

Q. Are you contributing to the Fund now? A. No, sir.

Q. You stopped about three years ago? A. That's right.

Q. Did you continue to work after you stopped contributing to the Voluntary Fund? A. Yes, sir.

Q. Did you lose any jobs because you stopped contributing to the Fund? A. No, sir.

Q. Were you denied any overtime because you stopped contributing to the Fund? A. No, sir.

Q. Anybody from the Union come out to you to inquire as to why you stopped contributing? A. No, sir.

Q. Mr. Callanan come out and ask you why you weren't contributing? [1,142] A. No, sir.

Q. How about Mr. Lawler? Did he come out and ask why you weren't contributing? A. No, sir.

Q. Mr. Seaton? A. No, sir.

Q. Anybody on their behalf, or on behalf of the Union? A. No one at all, sir.

Q. About how long did you pay into the Fund? A. From the start until about three years ago.

Q. What is your wage rate, Mr. Geiger? A. I merely looked at the—

Q. Would it be \$5.60 an hour? A. Right.

Q. Do you know offhand, sir, about how much you made last year? A. Around eleven thousand, I believe.

Q. Pardon me? A. Around eleven, I believe.

Q. Do you know what an assessment is, Mr. Geiger? A. Yes, sir.

Q. The Voluntary Political Fund that we are talking about, is that an assessment? A. No, sir.

[1,143] Mr. London: That's all.

Cross-Examination.

By Mr. Riddle:

Q. Sir, how old are you? A. Sixty-two.

Q. You have been a member of 562 for thirty-four years? A. Yes, sir.

Q. Was your father a member? A. No, sir.

Q. What type work, specifically, do you do as a pipe fitter? A. Well, what I have done practically all—I have done service work on air conditioning, refrigeration, and have been a foreman on a construction job.

Q. You have been a foreman on a construction job? A. The last, practically ten years.

Q. You are not in construction work now? A. Yes, sir.

Q. But you are not a foreman now? A. Yes.

Q. You are a foreman now? A. Yes, sir.

Q. Foreman on construction jobs for the past ten years? A. Longer than that, actually.

[1,144] Q. All right. What job is it that you are working on at the present time? A. Windsor School, in Imperial, Missouri.

Q. A school building? A. That's right.

Q. Imperial? A. That's right.

Q. How many people are on your crew? A. At the moment, two.

Q. Have you been assigned to larger jobs, or smaller jobs? A. Larger jobs.

Q. Larger jobs? A. That's right, sir.

Q. You have frequently more than two people on your crew? A. Yes.

Q. Sir, the construction work that you do, does this take you all around the area outstate? A. I haven't gone outstate for several years.

Q. How long ago? A. About '55. Well, I take that back. I was over in Illinois about two months ago.

Q. All right. Sir, you say about three years ago you [I,145] stopped paying into the Fund? A. That's right.

Q. And prior to that time, you had paid into it? A. Intermittently.

Q. For how long? A. Well, I paid by check. I paid, let it run for a while, paid by check generally.

Q. Now, had you signed a card? A. I don't have any recollection of it. I may have, I don't remember.

Q. Did you always pay by check when you paid? A. Not necessarily.

Q. Sometimes by cash? A. Yes.

Q. So on the jobs that you have been a foreman on for the last few years, have you made any collections? A. No, sir.

Q. Have collections been made on your jobs? A. Perhaps about two.

Q. Who did the collecting? A. By the steward, on the job.

Q. You mean two jobs there have been collections? A. That's all I can remember offhand.

Q. What jobs were they? [1,146] A. County Library at Clayton and Lindbergh, and the last one I remember was United Parcel Service on Scott and Jefferson.

Q. All right. The two people that are working for you now, do they pay into the Fund? A. They pay individually. I couldn't tell you that.

Q. You don't collect from them? A. No, sir.

Q. Did you ever collect? A. No, sir.

Q. Is there a reason why you have never collected? A. I have never been given any authority to collect, and I never asked for the privilege.

Q. I see. Now, did some event occur about three years ago that caused you to cease paying? A. No, not necessarily. I just am an independent voter, and I believe that you have the right to give or not to give as your proposition.

Q. And you decided to stop? A. That's right.

Q. Did you talk to anybody about it at the time? A. No, sir.

Q. No one? A. No one.

[1,147] Q. Do you go to your Union meetings? A. Now and then.

Q. When is the last time you were at one? A. Oh, about four months ago.

Q. Before that, how long was it before you were at a meeting? A. Oh, generally, I don't know—possibly about two or three months' interval.

Q. Have you ever heard the Political Fund discussed down there? A. I have; yes.

Mr. Riddle: I believe we have nothing further to ask this witness.

The Court: Any redirect?

Mr. London: One brief question, Your Honor.

Redirect Examination.

By Mr. London:

Q. Mr. Geiger, on any of the jobs that you have been foreman on, do you require more of the men working under you and who is not contributing to the Voluntary Fund? A. No, sir.

Q. Does the fact that a man does or does not contribute to the Voluntary Fund make any difference to you in the assignment of work? [1,148] A. Not a bit.

Q. In the granting of overtime? A. No, sir.

Mr. London: Thank you. That is all.

Recross Examination.

By Mr. Riddle:

Q. Sir, do you hire your own men, or are they sent to you from the hall? A. They are sent to me from the hall.

Q. You have no discretion on who comes out, or who is sent from the hall? A. No, sir.

Q. That is all done by the business manager, Mr. Steska, or one of the others? A. Well, I convey my information to the owner of the company, and he calls for the men.

Q. If you need five men, or six men, you tell your company and they call the hall? A. That's correct.

Q. And the hall decides who is sent out? A. I have no idea of that. I presume so.

Q. But you don't go out and select your own people yourself? A. No, sir.

[1,149] Q. If there is a layoff, who decides who is laid off? A. A layoff is decided normally by the foreman or the employer.

Q. But if you are going to lay off two out of six, who decides which two of the six will be laid off? A. There's generally a conference between myself and the employer as to who to lay off.

Q. And a representation of the Union? A. No, sir.

Q. The Union is not in on that with your— A. They haven't been with me.

Mr. Riddle: I see. I have nothing further.

Redirect Examination.

By Mr. London:

Q. When it comes time for a layoff, Mr. Geiger, do you take into consideration whether or not the men are contributing to the Voluntary Fund? A. None, because I don't know whether they are or not.

Q. So they are laid off in your discretion? You keep the men that you feel are best able to do the job for the company you are working for; is that right? A. For the particular work I have to do.

Q. Without any consideration to the Voluntary Fund? A. None.

[1,150] Mr. London: Thank you.

The Court: You may be excused.

(Witness excused.)

FRANK J. KASAL,

being first duly sworn, testified in behalf of the defendants as follows: .

Direct Examination.

By Mr. Daly

Q. Would you state your name, please? A. Frank J. Kasal.

Q. And where do you reside, Mr. Kasal? A. 519 St. Paul Drive, Cahokia.

Q. With whom do you reside? A. My wife and family.

Q. Are you employed at the present time? A. I am.

Q. By whom? A. Kramer-Hicks.

Q. What business or occupation? A. Pipefitter.

Q. What kind of a company is Kramer-Hicks? A. Pipefitting, heating, air conditioning.

Q. How long have you been with Kramer-Hicks? A. Since April of this year.

[1,151] Q. And for whom were you employed prior to going to work for Kramer-Hicks? A. Connors Heating.

Q. Are you a member of Local 562? A. Pardon me?

Q. Are you a member of Local 562? A. I am.

Q. And for how long have you been a member? A. Since 1957.

Q. Are you familiar with the Voluntary Fund? A. I am.

Q. And did you sign a Voluntary Agreement Card? A. I have.

Q. And have you contributed to this Fund? A. At times.

Q. Are you contributing now? A. I am.

Q. And you say "at times." Were there times that you did not contribute? A. Yes, sir.

Q. All right, sir. Now, let me ask you if, during the days that you did not contribute, did anyone ever come and talk to you about the fact that you were not contributing? A. No, sir.

[1,152] Q. Did you ever lose any job as a result of not contributing? A. I did not.

Q. Did you ever lose any overtime? A. No, sir.

Q. Have you ever been a collector for the Voluntary Fund? A. At one time I was.

Q. And, at this time, you collected for the men; is this correct? A. I did.

Q. Did you ever tell any of them that they had to pay into this Fund? A. No, I didn't.

Q. Are you working steady now? A. Yes, sir.

Q. Did you ever work as a foreman? A. Yes, sir.

Q. As a pipefitter. And what job was that? A. Well, all of the jobs while I was with Connors.

Q. That was before this present company; is this correct? A. Yes, sir. I am a foreman now.

Q. Now, you indicated earlier that you had contributed [1,153] some of the time, and some of the time you didn't? A. Yes, sir.

Q. What is the longest period of time, Mr. Kasal, that you went without contributing? A. Oh, that is hard to say; possibly, maybe a year.

Q. And did you work steadily during that time? A. I did.

Mr. Daly: I have no further questions.

Cross-Examination.

By Mr. Riddle:

Q. Sir, when was the year that you didn't pay anything in? A. Well, it wasn't all in one year, but over a period of time there was times that I paid, and sometimes that I didn't, according to my finances.

Q. You have been a member since when? 19 and—
A. 57.

Q. 57. You say at times you collected the money from the people out on the job? A. I did.

Q. When was this? A. I'm doing it now, and I done it when I was on the last job I was on for Connors.

Q. You have been on the job for Kramer-Hicks since [1,154] April '68? A. Yes, sir.

Q. How many people do you have under your supervision now? A. Six to eight.

Q. Did you collect from them each week? A. Yes, sir.

Q. Each Monday? A. Yes, sir.

Q. How many of this six or eight paid you last Monday? A. All of them.

Q. What about the previous week? A. All of them.

Q. Any of them out-of-towners? A. No, sir.

Q. All regular members? A. All local men; yes, sir.

Q. All pay you at the rate of 50 cents? A. Yes, sir.

Q. For eight hours worked? A. Yes, sir.

Q. And if they have overtime, they pay you more? A. Yes, sir.

Q. How much more? [1,155] A. Fifty cents.

Q. At the rate of 50 cents for each overtime they pay— A. Right.

Q. Have all six or eight of these people paid in to you every week since you were working down at Kramer-Hicks? A. As long as I have been foreman. I wasn't foreman all the time. It's just been the last three months.

Q. Since you have been foreman, have you paid in? Have you paid each week yourself? A. Yes, sir.

Q. When did you become foreman? A. Oh, I think it was about a month, month and a half after I went there.

Q. And you paid in each and every week since then? A. Since the time I started.

Q. All right. Since the time you started down at Kramer-Hicks? A. Yes, sir.

Q. Now, sir, I believe you said before that you were working at Connors Heating? A. Yes, sir.

Q. Was that the same kind of work you were doing at Kramer-Hicks? A. Yes, sir.

[1,156] Q. Were you ever foreman on that job? A. Yes, sir.

Q. Did you do any collecting on that job? A. The last job I had with him before I left, I did.

Q. With Connors, you did? A. Yes, sir.

Q. How many people were you collecting from there? A. It varied from four to sixteen, depending on the type of crew.

Q. Well, on that job, did you pay each week then? A. Not every week. No, I didn't.

Q. Well, how many weeks out of the year did you miss? A. Like I said, it just depends on my finances at the time.

Q. Well, do you know how many times out of that? A. Not offhand I couldn't give you an accurate account of how many times I had and I hadn't.

Q. Would it have been as many as five times, five weeks during the year? A. Possibly more.

Q. You just can't give us any better estimate than that? A. No, sir, I can't, because if I can afford to pay it at the present time, that is when I do it.

Q. Since January 1 of 1963, have you worked quite [1,157] regularly as a pipefitter? A. Yes, sir.

Q. Well, from that time up until now, give the Court and jury your best estimate about the number of weeks that you have failed to pay. A. I guess it would total close to a year.

Q. You mean there has been about fifty-two weeks that you haven't paid? A. Yes, sir.

Q. Now, have you ever failed to pay on a job where you were collector and the foreman? A. Yes, sir.

Q. How did you report that to the Union Hall? A. Just didn't put the name down.

Q. You didn't put your own name down? A. No, sir.

Q. You just left it off the list? A. Right.

Q. And you only put your name on the list when you paid? A. Yes, sir.

Q. Can you give me the name of a foreman that you have worked for yourself over the past three years? A. That I have worked for?

Q. Yes. [1,158] A. Ollie Kramer.

Q. Can you give me another one? A. Art Grix.

Q. Who? A. Art Grix.

Q. How is that spelled? A. G-r-i-x.

Q. What jobs were they on? A. Mendenhall Ford.

Q. Any other place? A. Washington University.

Q. Sir, on these days that you didn't pay, did you make any effort to catch up? A. No, I didn't.

Q. How old are you, sir? A. Thirty-six.

Q. You have been a pipefitter since you were how old?
A. Let's see. 1957. Twenty-five.

Mr. Riddle: I have nothing further to ask this witness,
Your Honor.

The Court: Step down.

(Witness excused.)

[1,159]

GEORGE TAYLOR,

being first duly sworn, testified in behalf of the defendants as follows:

Direct Examination.

By Mr. Randall:

Q. Mr. Taylor, would you state your name, please? A. George Taylor.

Q. And where do you live, sir? A. No. 12 Robin Wing Lane, Hazelwood.

Q. And are you a member of Pipefitters Local 562? A. Yes, sir.

Q. And how long have you been a member? A. Since 1957.

Q. And what is your present employment? A. With Guaranteed Heating and Engineering Company.

Q. Are you a foreman? A. Yes.

Q. Now, Mr. Taylor, have you ever contributed to the Pipefitters Voluntary Fund? A. No, sir.

Q. Have you never contributed? A. Prior to 1963, I believe, for a short period of time.

Q. But since 1963, you have not contributed at all? A. Right.

Q. Now, do you have a steward on your job? [1,160] A. No, sir.

Q. Does anyone on your job collect for the Voluntary Fund? A. No, sir, because I don't get involved in large construction.

Q. How many people do you have working for you? A. I believe there's about twelve people now, or less than that.

Q. Less than that? A. Right.

Q. And you have never collected for the Voluntary Fund? A. No, sir.

Q. And who acts as the steward on your job? A. I don't get involved, sir. I do service work, generally, for the contractor.

Q. I see. A. And I don't get involved with—

Q. Jurisdictional problems at all? A. Right.

Q. Now, do you know whether the men on your job contribute to the Voluntary Fund? A. Possibly. Some of them do, I know. Others don't.

Q. Has anyone ever asked you about the fact that you are not contributing to the Fund? [1,161] A. No, sir.

Q. Mr. Callanan, or Mr. Lawler, Mr. Seaton ever spoken to you about that matter? A. No, sir.

Q. And have you worked continuously through the years? A. Yes, sir.

Mr. Randall: That's all.

Cross-Examination.

By Mr. Riddle:

Q. Sir, you say that you work on small jobs. What do you mean by that? A. Well, not necessarily a small job. I work after the men have generally left the job. I start up the air conditioning and heating and equipment like this.

Q. You start out with that? A. Right.

The Court: He starts up.

Mr. Riddle: Starts up.

The Witness: Starts up the equipment.

Q. (By Mr. Riddle) I see. Maybe I am still not clear.
A. OK.

Q. Are you more in the maintenance end than you are in construction? A. Right; yes, sir; more in the maintenance end.

[1,162] Q. Are the people who work with you maintenance people also? A. I work generally by myself, sir.

Q. You usually work by yourself? A. Yes, sir.

Q. As I recall, you said you made payments into this Fund before 1963? A. Yes, sir.

Q. Do you remember the date that you ceased making payments? A. No, sir.

Q. Do you remember the reason why you ceased making payments? A. No. It's been quite a few years ago.

Q. You don't remember why you stopped? A. No; just stopped.

Q. Have you ever collected anything from any of the boys? A. No, sir, in no way, shape or form.

Q. Sir, how do you go about getting your employment?
A. How do I go about getting my employment?

Q. Yes. A. I don't know, really. I started with this contractor, and I have been with him ever since.

[1,163] Q. The same contractor? A. Yes, sir.

Q. And his name is what? A. Guaranteed. Do you want the contractor's name?

Q. Yes. A. Guaranteed Heating and Engineering.

Q. You began working with him when? A. 1956.

Q. You have been with that one company ever since?
A. Yes, sir.

Q. When you got your job with them, did you just apply there directly? A. No, sir.

Q. How did you get sent out? A. I think it was Mechanical Contractors Association. I went through them to get into the Union. I believe it was required that we go through the Mechanical Contractors Association. You put your name on a list.

Q. You have been with this Guaranteed Heating Company since 1956? A. Yes, sir. If my job was terminated, I would go in to the hall and put my name on a waiting list.

Q. But that's never happened? A. No, sir.

[1,164] Mr. Riddle: I have nothing further of this witness.

Redirect Examination.

By Mr. Randall:

Q. Mr. Taylor, do you receive the same wage scale as a foreman on a construction job? A. Yes.

Q. And what is that wage scale? A. \$6.10 an hour.

Mr. Randall: That is all.

Mr. Riddle: Nothing further.

The Court: All right. You may be excused.

(Witness excused.)

DAVID CONDREN,

being first duly sworn, testified in behalf of the defendants as follows:

Direct Examination.

By Mr. London:

Q. State your name, please. A. David Condren.

Q. And——

The Court: Speak up. What?

The Witness: Condren.

Q. (By Mr. London) Speak up loudly, Mr. Condren. Where do you live? [1,165] A. 6100 Kingsbury.

Q. And you are a married man? A. Yes, I am.

Q. Are you a member of Pipefitters Local 562? A. I am.

Q. How long have you been a member, sir? A. Twenty-one years.

Q. Are you familiar with what has been called the Voluntary Fund? A. I am.

Q. Did you ever sign a card relating to contributions to the Voluntary Fund? A. I did.

Q. Did you ever contribute to the Voluntary Fund? A. I did.

Q. When did you start contributing, sir? A. Approximately on or about January 1, 1963.

Q. And did you continue to contribute to the Fund, sir? A. I did.

Q. Did you ever miss contributing? A. I did.

Q. Would you tell the Court and jury when you missed contributing to the Fund? A. About January 1, 1962, to January 1, 1963.

[1,166] Q. And was there any reason that you weren't contributing? A. Yes.

Q. Would you mind telling us what that was? A. Well, I lived in a building I was buying, and it was too small, so I bought another one, and I had to make both payments at one time, and—

Q. In other words, you might say it was for financial reasons? A. Right; financial reasons.

Q. When you weren't contributing, sir, did anybody from the Union come out and talk to you and try to get you to contribute? A. They did not.

Q. Did you subsequently continue the money you were contributing? A. Yes, sir.

Q. Who got you to do that? A. Nobody.

Q. Why did you do it? A. Because I made a pledge to volunteer, donate to the Voluntary Fund, and I kept my pledge.

Q. Did anybody come out and talk to you in any way, shape or form? [1,167] A. No, sir.

Q. Were you relieved of any jobs because you weren't contributing? A. Never.

Q. Did you lose any overtime or pay because you weren't contributing? A. I did not.

Q. Did you attend any of the Voluntary Fund meetings? A. I did.

Q. Were you familiar with some of the candidates that the Fund was supporting? A. Some of the candidates.

Q. Mr. Callanan, Mr. Lawler, Mr. Seaton ever come to you and try to get you to make contributions when you were not contributing? A. They did not.

Q. Anybody on their behalf, or on behalf of the Union, try to do that? A. They did not.

Mr. London: That's all, sir.

Cross-Examination.

By Mr. Riddle:

Q. Sir, I am not sure I understood your testimony accurately. Did you say there was one period of time that you [1,168] didn't contribute? A. That's what I said; yes, sir.

Q. And what was that period? A. January 1, 1962 to January 1, 1963; there or about.

Q. Have you paid every week since then? A. I paid up, yes, I have, but not every week. You know, not on any given date.

Q. But if you got behind, would you catch up? A. I would catch up, and I have.

Q. Are you now current? A. Yes, I am.

Q. Now, this year that you were off, did you get current on that also? A. I did.

Q. At the time that you were not paying for that year, who was your superintendent or your foreman? A. As far as I can recall, Grover McNamara.

Q. Grover McNamara? A. Right.

Q. You told him the reason you couldn't pay? A. No.

Q. You didn't tell him? A. I did not. I had no cause to, no reason to.

Q. You just didn't. You stopped? [1,169] A. That's right.

Q. And he didn't say anything to you about it? A. No, sir.

Q. What job were you working on then? A. I was working for the National Food Stores.

Q. Now, who are you working for now? A. I'm not working now. I was injured.

Q. How long have you been—— A. Seven months; February 16th.

Q. During the time that you were, this year that you didn't pay in to the Fund—— A. I didn't understand your question, sir.

Q. Well, you said you didn't pay during the year of 1962? A. That's right.

Q. You were having some financial hardships? A. Right.

Q. Did you pay your union dues and assessments through a period of time? A. I did.

Q. Keep them current all the time? A. All the time.

Q. What were they at that time? Do you remember?
A. The nearest I can recall, I'd say, oh, approximately [1,170] about two and a quarter a month.

Q. Two and a quarter? A. As close as I can recall. I don't recall just exactly what they were at that time, because they have changed from time to time.

Q. How old are you now, sir? A. Fifty-eight.

Mr. Riddle: I have nothing further to ask this witness.

The Court: Anybody else?

Redirect Examination.

By Mr. Randall:

Q. What is your politics, sir? A. Pardon?

Q. Are you a Republican or a Democrat? A. I'm Democrat.

Redirect Examination.

By Mr. London:

Q. What was the salary the last week that you worked, Mr. Condren? A. Approximately \$8,000.

Mr. London: Thank you.

The Court: You may be excused.

(Witness excused.)

[1,171]

JOSEPH CLAY,

being first duly sworn, testified in behalf of the defendants as follows:

Direct Examination.

By Mr. Daly:

Q. Would you state your name, please? A. Joseph Clay.

Q. Where do you reside, Mr. Clay? A. 5210 Page.

Q. And are you employed, sir? A. Yes, sir.

Q. By whom are you employed? A. Corrigan Company.

Q. Corrigan and Company? A. Correct.

Q. And what is your occupation for them? A. Pipe fitter.

Q. And are you a member of Local 562? A. Yes.

Q. How long have you been a member of Local 562?
A. Two and a half years.

Q. And are you familiar with the Voluntary Fund? A. Yes.

Q. Did you sign a card, a Contribution Card for the Voluntary Fund? [1,172] A. Yes.

Q. And do you contribute to the Fund, Mr. Clay? A. Yes.

Q. Now, did anyone ever tell you you had to contribute to that Fund? A. No.

Q. And how long have you been contributing to the Fund? A. Ever since I became a member of the Local.

Q. During any of that time, did anyone ever talk to you and say you had to contribute, or such as that? A. No.

Q. You contributed to this Fund voluntarily? A. Yes.

Q. What is your wage scale, Mr. Clay? A. \$5.60 an hour.

Q. \$5.62 an hour? A. \$5.60.

Q. \$5.60 an hour? A. Yes.

Mr. Daly: Your witness.

Cross-Examination.

By Mr. Riddle:

Q. Sir, you are now working on the Corrigan job? A. Correct.

[1,173] Q. And you have been a pipefitter for how long? A. Two and a half years.

Q. Were you an apprentice for a period of time? A. On the crash program.

Q. Sir? A. On the crash program.

Q. I see. Now, when you became a member of 562, how did you first find out about this Fund? A. Through the Voluntary Card.

Q. Well, where did you first see that card? A. When they brought it around and asked did I want to contribute anything to the Voluntary Fund.

Q. All right, sir. And who is "they" that brought it around to you? A. Foreman or steward on the job.

Q. All right. Now, do you remember the first day that you reported to work? A. Actually the first day?

Q. Yes. A. Not offhand, I don't.

Q. Sir? A. Not offhand, I don't.

Q. Was this card brought around, now, the very first day you came out on the job? [1,174] A. No.

Q. Second day? A. No.

Q. First week? A. No.

Q. How long were you on the job before it was brought around to you? A. It was brought around to me when I became a member of the Local.

Q. I'm not understanding you, sir. I thought I recall that you said that you got the card when you got out on the job, that the foreman gave it to you? A. No, I didn't state it like that, sir.

Q. All right, sir. A. When I became a member of the Local, then I became part of all the activity of the Local. Then I was a part of whatever the activities were.

Q. Well, how did you find out how much you were to pay each week? A. Well, it was described to me by the foreman who brought the card.

Q. All right. Where were you when the foreman brought the card to you? A. On the job.

[1,175] Q. All right. Now, then how long had you been on the job before he brought the card to you? A. I was on the crash program. When I became a member of the Local, then——

Q. When did you become a member? A. After I finished my training in the school.

The Court: When was that?

The Witness: Eight months, maybe after I got in the crash program.

The Court: When did you get in the crash program?

The Witness: In February of '66.

Q. (By Mr. Riddle) Well, were you working on the crash program at the same time? A. Yes; on-the-job training.

Q. On-the-job training? A. Correct.

Q. And you just continued on that same job? A. Until the job closed. Then I went to another——

Q. Yes. Maybe I'm not making myself clear, Mr. Clay. Sir, is this the case that you were on this crash program, a training program, and you were working for the Corrigan Company at that time? A. True.

Q. And you continued to work on this program for the [1,176] Corrigan Company, and then one day you became a member of 562? A. True.

Q. All right. And when you became a member of 562, that's when you were given the card by the foreman. A. I was given several cards.

Q. Well, by this so-called Voluntary Fund? A. Right.

Q. And that's when you were given the card? A. Right.

Q. All right. Now, was it on the day that you became a member of 562? A. No.

Q. Well, how many days after it was it? A. It could have been a week. I don't recall, actually. It's been so long ago.

Q. Was it before your first paycheck? A. My first paycheck was when I first got on the crash program.

The Court: Your first paycheck as a member?

The Witness: No.

Q. (By Mr. Riddle) You didn't get the card before your first paycheck? A. No.

Q. All right. Now then, after you got the card—well, [1,177] strike that. Did you make a payment to the Fund the first week that you were a member of the Pipefitters Local? A. First I read the card, then I signed it.

Q. All right. A. And then the following week I made a payment to the Voluntary Fund.

Q. All right. Well, sir, did you make the payment to the Voluntary Fund within a week or ten days after you became a member of the Local? A. After I received the card, which I don't know which it was, a week or ten

days, I signed the card, and then the following week I made my first payment.

Q. All right. Now, you made your first payment to the foreman? A. Foreman or the steward; whichever the case might have been.

Q. Well, in this case, what was the steward's name? A. I can't recall.

Q. All right. Did you make this payment to him in cash? A. Yes.

Q. Now, when the foreman brought that card around to you, or the steward, do you recall which one it was? A. No, I can't recall. It's been so long ago.

Q. Well, was any explanation made to you of the card [1,178] at that time? A. The only explanation was made that this is the card, asking would you contribute to the Voluntary Fund, and here's the card, read it. If you don't want to sign it, you don't have to, and you are not obligated to.

Q. All right. That's the only explanation made? A. That's all.

Q. How many other people working on the job with you there? A. At that particular time?

Q. Yes: A. I couldn't say offhand, because it's been quite some time.

Q. All right. Sir, do you recall if you made your first payment to this Fund in cash or by check? A. In cash.

Q. Do you remember how much it was? A. Yes.

Q. How much? A. Two fifty. I worked five days.

Q. \$2.50? A. Right.

Q. All right, sir. Now, have you paid \$2.50 in cash each and every Monday since that first payment? [1,179] A. No.

Q. Have you missed a day? A. Yes.

Q. How many days? A. Work days?

Q. No. How many times—well, maybe I'd better get at it this way. Have you worked regularly each week since that date? A. Certainly.

Q. Well, each week that you received a paycheck, did you make a payment into the Fund? A. Yes.

Q. And was it always \$2.50, or on occasion was it higher or less than that? A. It has always, it had to be always less than that.

Q. That's because you never worked more than forty hours a week? A. No. I mean when it was more than forty hours, then I had to contribute more than that.

Q. You had to contribute more? A. Well, according to the Voluntary Fund.

Q. Yes, sir. So on occasions you had to contribute more than \$2.50. A. I didn't necessarily have to. I mean I did it [1,180] because I wanted to.

Q. I see. Now, have you paid into the Union dues also in addition to this amount? A. Yes.

Q. Do you know how much those dues are? A. Three fifty a month.

Q. And you paid those, or have they been checked off by your employer? A. They come out of the check through the employer.

Q. Now, are you current on your payments to the Fund now? A. Am I current?

Q. Yes. A. Yes.

Q. Are you current on your dues and assessments into the Union now? A. Yes.

Q. Sir, have you worked on any job other than for the Corrigan Company? A. No.

Q. Sir, have you been told what uses or what purposes are being made, or what your money that you are paying

into this Fund is used for? A. Well, it's self-explanatory. Political, education and welfare.

[1,181] Q. Have you been told specifically what it is being used for? A. Yes.

Q. By whom? A. By the administrator of the Political, Welfare and Education Fund.

Q. And who is that? A. Lawrence Callanan.

Q. You talked to him about what the funds were being used for? A. I didn't personally talk about it, but it was discussed at a meeting.

Q. And he explained to you and the others at the meeting what it was being used for? A. Definitely.

Q. Did he make an accounting to you what was happening to your money? A. Not necessarily a personal accounting. I mean, I couldn't say that.

Q. Sir, have you talked to Mr. Callanan personally about that Fund? A. Have I talked to him personally about it?

Q. Yes. A. No, I have never.

[1,182] Q. Sir, during the crash program, do you recall what you were being paid an hour? A. It was on-the-job training, with the same scale as the journeymen.

Q. The same scale as the journeymen? A. Correct.

Q. Now, while you were in this crash program, or the training program— A. Um' hmm.

Q. You were making the same amount of money as you made after you became a pipefitter? A. True.

Q. Now, during that period of time, you didn't make any political contributions? A. No.

Q. And nobody collected regularly from you? A. No.

Q. And the first one you made was within the first week or two after you became a member of Local 562? A. True.

Q. Did you know of the Fund before you became a member of 562? A. I have seen the guys paying to it, but I wasn't concerned with it, because it didn't concern me.

[1,183] Q. Were you in any better financial position to pay into the Fund after you became a member than you were before? A. I was still making the same scale.

Q. Were you working the same—the job was the same? You were working with the same other members? A. True.

Q. So up until the time you became a member of the Local, you were working with other members of 562, right on the job? A. Right.

Q. And saw them voluntarily contribute? A. True.

Q. Each week? A. True.

Q. But you didn't voluntarily contribute at that time? A. I didn't know what they were voluntarily doing.

Q. Sir, is it true that you didn't decide to voluntarily pay until you became a member of 562? A. That's when I became aware of what they were doing. They just issued me a card to read and understand, as those fellows in the past had done. Up to that time I didn't even know what was going on as far as the Voluntary Fund was concerned.

Q. Did you have the same foreman on the job while you were in the crash program as you had right after you became a [1,184] member? A. No.

Q. Different foreman? A. Yes.

Q. The people who worked elbow to elbow with you were the same people? A. No.

Q. They were members of Local 562? A. Yes, they were members of Local 562, but not the same fellows.

Mr. Riddle: I have nothing further from this witness.

The Court: Anyone else?

Mr. Randall: No, Your Honor.

Mr. London: Nothing.

The Court: Step down.

(Witness excused.)

WILLIAM E. DOLAN,

being first duly sworn, testified in behalf of the defendants as follows:

Direct Examination.

By Mr. Randall:

Q. Mr. Dolan, would you state your full name, please, sir? A. William Edward Dolan.

Q. Where do you live? [1,185] A. 16 Sunset Court.

Q. What city? A. Normandy; Pasadena Park.

Q. And, Mr. Dolan, are you a member of Pipefitters Local 562? A. I am.

Q. And how long have you been a member of that Local? A. Fifteen years.

Q. How old are you? A. Forty-one.

Q. Now, Mr. Dolan, what is your present employment? A. I work for the Bechtold Corporation, at the Union Electric power plant at Labadie, Missouri.

Q. Are you working as a journeyman or a foreman? A. I'm an area foreman.

Q. You are the area foreman? A. Yes.

Q. How long have you been working on that job? A. Since April.

Q. Of this year? A. Of this year; yes, sir.

Q. Mr. Dolan, are you aware of the Voluntary Fund? Pipefitters 562 Voluntary Fund? A. Yes, sir.

[1,186] Q. Have you ever attended any meetings of the— have you contributed to the Fund? A. Yes, I have.

Q. And have you ever attended any meetings of the Fund? A. Yes, I have.

Q. And when and where were those meetings held? A. At the Electricians hall.

Q. Were there any candidates present at any of the meetings? A. Yes, there were.

Q. Can you recall some of the people who were present? Some of the candidates? A. Governor Hearnnes and Mr. Eagleton. And that's all I can recall.

Q. I see. Were the meetings of the Fund held separate from the meetings of the Local itself? A. Yes, they were.

Q. Now, did you sign one of the Voluntary Contribution Agreement cards? A. Yes, sir, I did.

Q. Did anyone ever tell you that it was necessary for you to contribute to the Fund?

Mr. Riddle: I will object to that as being a leading and suggestive question, Your Honor.

[1,187] The Court: Sustained as to form.

Q. When you signed the contribution card, what was said to you at that time, sir?

Mr. Riddle: I want to object to that unless he locates the person and the date and place where this so-called conversation occurred.

The Court: Well, I think he can say what was said to him. If you want to cross-examine him on the rest of it, you can do that too. All right. Go ahead.

The Witness: Would you repeat the question?

Q. (By Mr. Randall) Yes. At the time you signed the contribution card, do you recall what was said to you at that time? A. They just asked that we sign the card to the Voluntary Fund of our own free will.

Q. I see. Now, did you read the card? A. Yes, sir, I did.

Q. And then thereafter you signed the card; is that correct? A. Yes, sir.

Q. And as a foreman, have you ever told anybody that it was necessary for them to contribute to the Fund in order to work?

Mr. Riddle: I will object to the form of that [1,188] question as leading and suggestive.

The Court: Be sustained as to the form.

Q. Mr. Dolan, have you ever spoken to anyone who has worked for you, concerning the Fund? A. I don't know if I understand you correctly.

Q. Well, have you ever collected for the Fund? A. Yes, sir.

Q. All right, sir. Now, have you ever talked to any of the people who contributed to the Fund? A. Yes, I have.

Q. All right. Do you recall what you said to those people? A. No; only that their contributions were due, and so forth.

Q. Well, did you ever say anything to them as to whether or not it was necessary for them to contribute?

Mr. Riddle: I object to that question. That is leading and suggestive; the same one that he asked a little earlier.

The Court: No. He asked him whether or not it was necessary.

Q. (By Mr. Randall) Do you understand the question?

The Witness: No, sir. Would you repeat it?

Q. Did you ever say anything to these people as to [1,189] whether or not it was necessary for them to contribute to the Fund in order to work? A. No, sir, I have not.

Q. Did any of these defendants, Mr. Callanan, Mr. Lawler, Mr. Seaton, or anyone else from Local 562, ever say anything to you as to whether or not it was necessary to contribute to the Fund in order to be employed? A. No, sir, they did not.

Q. And what is your politics, sir? A. I'm a Democrat.

Mr. Randall: You may inquire.

The Court: I am about to recess for lunch. Do you want to question him first or——

Mr. Riddle: Well, we can wait until after lunch.

The Court: All right. Members of the Jury, we are about to recess until 2:00 o'clock for lunch. Bear in mind the admonition I have given you heretofore about not discussing the case with anybody. Don't permit anyone to discuss it with you. Don't read any newspapers. Don't listen to the radio or television.

All right. 2:00 o'clock.

(Thereupon at 12:42 p. m., court was in recess for lunch until 2:00 p. m.)

[1,190] Thursday, September 12, 1968.

 Afternoon Session.

WILLIAM E. DOLAN,

having previously been sworn, resumed the stand, and the following proceedings were had:

Cross-Examination.

By Mr. Riddle:

Q. Mr. Dolan, at the present time, you are a foreman?

A. An area foreman, sir.

Q. Area foreman? A. Yes, sir.

Q. And that's a higher position, or higher paying job than a regular foreman? A. It is.

Q. And you are area foreman for the Bechtold Corporation? Is that the company that you are working for? A. Yes, sir.

Q. How do you get assigned as area foreman by the people down at the union hall? Do they recommend you for that position? A. Yes, sir.

Q. Did they recommend you for the position of foreman when you were foreman? A. Yes, sir.

[1,191] Q. And you were a foreman for how long before you became an area foreman? A. Well, I have been an area foreman for about three years, I would say.

Q. And then you were a regular foreman for how long? A. Four or five years before that.

Q. Sir, I may not recall accurately your testimony before the lunch break, but are you presently collecting any funds? A. No, sir; no.

Q. You are presently paying into the Fund? You are presently paying, yourself, into the Fund? A. Yes.

Q. You haven't ever missed a payment? A. No, sir, I have not.

Q. Now, back in 1963, I assume that your payments there were \$1.00 for an 8-hour day each week? \$1.00 per day for an 8-hour day? A. Yes, sir.

Q. For a total of \$5.00 for a regular 8-hour day—40-hour week, rather? A. Yes, sir.

Q. Do you recall what happened January 1, 1966, that caused a change in that amount of payment? [1,192] A. What do you mean, sir, by what happened?

Q. Well, according to the evidence here, as represented by the chart, there was a decrease from \$1.00 per day down to 50 cents per day. Do you recall when that came about? A. Yes, sir, I do.

Q. Do you recall what caused it to come about? A. Not offhand, I don't.

Q. Well, were you at a meeting when it was discussed, or when that decision was made? A. I was at the meeting, yes, sir.

Q. Was this a Union meeting? A. No, sir.

Q. Where was it held? A. At the Electricians hall.

Q. Who presided? A. Mr. Steska.

Q. Mr. Steska presided. Is he the president of the Union? A. He is president of our local Union; yes, sir.

Q. Was he president at that time that he presided, at the time that you referred to and testified about? A. Yes, sir.

Q. Anybody else, preside, other than Mr. Steska? A. I really don't remember, sir.

[1,193] Q. He's the only one that you recall having been — A. He's the only one I recall; yes.

Q. Did he conduct the meeting? A. It's hard to remember back. When you talk about conducting the meeting, yes, I would say so.

Q. He wasn't director of the Fund at that time, was he? A. No, sir, he was not.

Q. He's never been a director of the Fund, has he? A. No, sir.

Q. Sir, at about that time, do you recall if there was an increase in your assessments that the Union was making upon its members? A. Yes, sir.

Q. Do you recall what the amount of the increase in the assessment was? A. Yes, sir. At the time of the meeting, we were paying two and a half per cent assessment, and it was increased to three and three-quarters per cent.

Q. At the same meeting? A. Yes.

Q. Presided over by Mr. Steska? A. To the best of my knowledge, yes.

Q. Now, the effect of this, you say three and a third—or what rate of increase did you say it was? [1,194] A. Three and three-quarters.

Q. Three and three-quarters?

The Court: That wasn't the rate of increase.

Q. (By Mr. Riddle) That was the amount of the new assessment? A. That's right. The rate of increase was one and a quarter per cent.

Q. Yes, sir. Now, sir, that increase in assessment would cost you about how much additional each day? A. 50 cents. Roughly 50 cents.

Q. Roughly 50 cents a day? A. Yes, sir.

Q. So the net amount of the cost to you was nothing. One went up and one went down? A. Yes, sir.

Q. This was explained to you and the others there, that this increase in assessment would not cost the people a penny more? A. I really don't remember.

Q. This was the interpretation that you had of it? A. Yes, sir.

Q. Did they go into effect on the same payroll for the same pay period? A. Yes. Well, I don't know when it went into effect [1,195] exactly; no.

Q. Well, if not on the same payroll period, about the same time? A. Yes, sir.

Q. Now, thereafter you continued, I suppose, to pay the reduced rate into the Fund? A. Yes, sir.

Q. And the increased rate in the assessment? A. Yes, sir.

Q. Were the same people present who voted on those propositions? A. Yes, sir, they were.

Q. Mr. Steska provided—or presided at both of them, as I recall you said? A. Mr. Steska never presided at both of them. He presided at a regular or a special meeting that was called for this purpose, as I recall, and—

Q. For this purpose? A. Of increasing the assessments.

Q. And decreasing the other payments? A. Well, when the special meeting was adjourned, then we went into the business of decrease in the Voluntary Fund. Now, whether — I don't think Mr. Steska presided at this meeting.

[1,196] Q. Who do you think presided at it? A. Mr. Lawler, I would imagine, but I really can't say for sure.

Q. Yes, sir. You haven't missed a payment on your assessment, or payment on this voluntary amount either at any time, or for any period? A. No.

Mr. Riddle: I believe that's all.

The Court: Anybody else?

Mr. Randall: No questions, Your Honor.

The Court: Step down, Mr. Dolan.

(Witness excused.)

JOSEPH JAMES QUINN,

being first duly sworn, testified in behalf of the defendants as follows:

Direct Examination.

By Mr. London:

Q. Please state your name. A. Joseph James Quinn.

Q. Where do you live, Mr. Quinn? A. Route 1, Box 196, O'Fallon, Missouri.

Q. Do you have a family? Married? A. Wife.

Q. Own your property out there where you live, Mr. Quinn? [1,197] A. Yes, sir.

Q. Mr. Quinn, are you a member of Pipefitters Local 562? A. I am.

Q. Where are you employed now, Mr. Quinn? A. Mark Twain Shopping Center, for Gross Engineering Company.

Q. How long have you been on that job? A. About three months.

Q. How long have you been a member of the Union? A. Oh, about twenty-three years, twenty-four years.

Q. Mr. Quinn, are you familiar with what has been referred to as the Voluntary Fund? A. Yes, sir.

Q. Are you familiar, sir, with the Voluntary Fund Contribution Cards? A. I think so.

Q. Have you ever signed a Voluntary Contribution Card? A. I have.

Q. Do you remember when that was, Mr. Quinn? A. I don't know exactly. Its been a long time ago.

Q. You signed one, or more than one? A. One, that I know of.

Q. Did you contribute money into the Voluntary Fund? A. I did.

[1,198] Q. And are you presently contributing into the Voluntary Fund? A. I am not.

Q. When did you stop contributing into the Voluntary Fund, Mr. Quinn? A. 1965.

Q. And do you know about when in 1965, sir? A. Well, I have the last check right here that I sent in. December 31, '65.

Q. All right. And from December 31st, '65, to the present, have you contributed anything to the Voluntary Fund? A. Nothing.

Q. Have you been working as a pipefitter from December 31, 1965, to the present? A. I have.

Q. Steadily? A. Steadily.

Q. What is your position on your present job, Mr. Quinn? A. Area foreman.

Q. How many men do you have that you oversee? A. Twelve, right now.

Q. Do you know if any of those men contribute to the Voluntary Fund? A. Yes, I do.

[1,199] Q. How do you know that? Do you collect for the Voluntary Fund? A. Yes, I do.

Q. And do you send the money that you collect from the men working under you, down to the Voluntary Fund office? A. Yes, sir.

Q. And you, yourself, do not give? A. No, sir. And I tell them when I ask them if they want to donate to the Voluntary Fund, if they want to donate it. "I don't give myself. It is up to you," and they willingly give it to me, and I collect it.

Q. Do I understand you to say, Mr. Quinn, when you present these cards to a man for his signature, you tell them that you, yourself, do not give? A. I definitely do.

Q. Mr. Quinn, may I ask you if there was some reason for your stopping your contributions to the Fund? A. Definite reason.

Q. Would you mind telling us what that was? A. Well, I run for state Senator in the Twenty-Sixth District, and when this Fund started, naturally it was supposed to be for members, as well as anybody else, or for charity also. And I went down, and I got no backing out of this Political Fund, so I got mad and I wouldn't pay it no more.

[1,200] Q. Did you tell anybody the reason that you were stopping your payments? A. Yes, I told Mr. Callanan.

Q. What did you tell him? A. I told him I wouldn't pay it no more.

Q. What did he tell you? A. He said, "It's voluntary. You don't have to."

Q. And the reason then, we might say, that you stopped contributing to the Voluntary Fund was because you disagreed with the politics that they were following? A. That is right. I always thought it was a good Fund.

Q. When they didn't support you, you decided— A. I wouldn't pay them. It was my money going in. I thought I ought to get something back for my campaign.

Q. Ever since you stopped paying, has anyone come out and talked to you to try to get you to start paying? A. No.

Q. Have you been denied any jobs, or denied any over-time? A. No. I have been a boss on every job.

Q. How many men contribute on your job that you are now working on, Mr. Quinn? A. Let's see. Ten.

Q. How many men are working on that job? [1,201] A. Twelve. No, sir. There's nine. Myself included, there's nine contributing.

Q. Contributing. And three of you who do not contribute; is that right, sir? A. Well, I don't know if they mail them in. There is one, I know, that don't contribute. It is my boss's son. I have him on the job with me, and he doesn't pay it.

Q. What is his name, sir? A. Hanford Gross.

Q. Mr. Quinn, as an area foreman, you receive some pay over and above the regular journeyman scale? A. My scale is \$7.98 an hour. That is in Zone 2.

Q. What is the rate of a journeyman's rate in Zone 2, if you know? A. 35 cents an hour less.

Q. And you are receiving this premium? A. I am receiving the premium.

Q. Did you lose any of this premium pay because of your not contributing to the Fund? A. No, sir.

Mr. London: Thank you. You may inquire.

Cross-Examination

By Mr. Riddle:

Q. Sir, you had paid into this Fund for a number of months? [1,202] A. From the time that it started. I

thought it was a good thing, and I paid into it up until '65.

Q. And when were you a candidate for office? A. In 1965.

Q. And you were running for what position? A. State Senator of the Twenty-Sixth District.

Q. Now, what efforts did you make to get the support of the Fund? A. Well, I went down and seen our officers, Lawrence and Mr. Lawler, and asked them did they have anybody in mind for that office, and they told me no, to go ahead and file. And I filed. And when it come time to —well, I think it was about three months before the primary, I went down and I seen Lawrence, Mr. Callanan, and he told me he wasn't going to back me.

Q. So you actually went down on two different occasions, once when you talked to Mr. Lawler and Mr. Callanan? A. Yes. This was around Christmas-time when I talked to them.

Q. And the second time you went back and you talked to Mr. Callanan? A. This was around, I imagine it was about in February or March.

Q. Of '65? A. Yes, sir.

[1,203] Q. Wait a minute. That would be '66. '66? A. That would be '66.

Q. Yes. Now, as a member of this Fund, did you make an effort to call all other members of them together in order to present your platform and your candidacy? A. No, I did not.

Q. As a member, didn't you have a right to call this entire membership together? A. Yes, I did, but I failed to do so. I guess I was a little green about politics, I'll tell you. I didn't know how to go about it.

Q. Yes, sir. Well, sir, is that the reason that you didn't call them together? A. Well, I didn't think I had to. As

a member of 562, I thought that I would naturally get the backing.

Q. And you thought you were going to get the backing until Mr. Callanan told you no? A. That is true.

Q. And you thereafter— A. And I told him off; I wouldn't pay no more.

Q. You wouldn't pay any more into the Fund? A. No. And he told me, "Well, that is your privilege."

Q. All right. Now, sir, after he told you that he wouldn't back you, did you think about talking to the members [1,204] of the Fund, getting a meeting together, and letting them hear from you? A. Well, I did, but my wife was against me running, to begin with, so I figured, well, I just had a lost cause here, that's all. The last six weeks I spent all the money we had, and I had to quit anyhow, so—

Q. Sir, did you not make an effort to call the members of the Fund together? A. No, I did not.

Q. No. I am asking you, sir, the reason, if the reason that you didn't call them together is that you knew that Mr. Callanan's word was the final word on it? A. Well, I figured that could be. I wouldn't say for sure, but just like you say, I should have called the members, because I believe I may have got the members with me.

Q. At that time, you considered Mr. Callanan's word to be the final word, so you just forgot about it?

Mr. Daly: I will object to that, Your Honor. It is something not in evidence.

The Court: It is cross-examination. He may answer.

The Witness: State the question.

Q. (By Mr. Riddle) At that time, when you left Mr. Callanan's office,— A. I was pretty mad. I really didn't care to consult [1,205] anybody then, I'll tell you, and I had

my wife on me besides, so I figured, well, it is a good time to quit anyhow. I am not cut out to be a politician, I'll tell you. I'm glad I didn't get elected.

Q. Yes, sir. Now, all the time that you were paying in this Fund, up until 1966, did you know what was happening to the money? A. Well, I did know that some of it was going for candidates, and some of it for charity.

Q. Well, up until that time, have you ever had a voice in how the money was to be spent? A. Oh, we could get up on the floor, and if we had somebody that was running for office, or somebody that you would like to be elected, you could get up and bring it up; sure.

Q. Up on the floor. The floor of what? A. Of the Local.

Q. Of the local Union's meeting? A. Yes, sir.

Q. At their regular meetings? A. Yes, sir.

Q. At these regular meetings, were the affairs of the political efforts discussed, a discussion as to who would be supported and who would not be supported? [1,206] A. Not so much, to my knowledge. I don't remember any of that hardly ever coming up. Well, I never attended very many meetings, so I didn't know a lot that was going on.

Q. Sir, you mentioned that your boss's son didn't pay into the Fund? A. That is true.

Q. Who is your boss? A. Mr. Gross. With Gross Engineering Company.

Q. All right. A. And his son is going to college, and during the summer, while home from college the last two years, he had worked with us.

Q. Sir, were you at the meeting when the decision was made to reduce the Voluntary payments from \$1.00 to 50 cents? A. No, sir, not to my knowledge.

Q. You never went—do you remember when that reduction went into force and effect? A. I guess I really didn't pay much attention to it. I didn't care when it went.

Q. You paid it up until January of '66, didn't you? A. '65 was the last payment I made; December 31st of '65, I believe it was. I got the check right here.

Q. Do you have your check there with you? A. Yes, sir. Right there was my last payment. These [1,207] are my other ones. You can see.

(The witness handed checks to Mr. Riddle.)

The Witness: Sometimes I would go five, six months before I'd ever send anything in, when I was paying it, and nobody said anything to me about it neither.

Q. When you figured up the amount of the check, how did you go about that? A. Well,—

Q. The amount of your last check was \$102.00 even? A. My wife used to mark it down every week. I started to bring that book with me, but I failed to do so.

Q. You have a book? A. I have a book of every day I worked when I was paying into it, and I thought it was a fine thing, she kept a record of it, and then we let it go— Well, you can see there six, seven months, eight months, and we mailed a check.

Q. Sir, did you keep this book with your regular dues book? A. No. That's separate. I have my book at home. I started to bring it. I should have, I guess.

Q. My question was, "Did your wife also keep a record of your payment of the assessments?" A. No. That's taken out. This money is taken out. The company takes that out.

[1,208] Q. Well, that wasn't always true? A. No, but I have only been married four years, too, and I used to send it in myself, and I didn't keep them checks. I'd throw them away. I'd keep them so long. When I thought they were all right, I'd destroy them.

Q. Sir, these checks that you handed me, did you use them for income tax purposes? A. No, sir, I did not.

Q. Why didn't you? A. Because it was voluntary: I was donating this money.

Q. You didn't show it as a donation? A. No, sir, I did not. My income will show that, too.

Q. Were you told not to do it? A. Well, I know that you can't take off anything I am giving from my heart.

Q. Sir, let me ask you this: Were you told not to take a deduction on your tax return for these payments? A. I don't never remember being told anything like that. I just know that I ain't supposed to take off anything that's not legal, and I try to live up to the law, and this is the reason I didn't.

Q. Sir, these payments that are paid into the Fund, have you ever heard them referred to as assessments? A. No, sir. This has always been voluntary in my paper. [1,209] When I collected, I got a book that shows "Voluntary" right at the top of it, and I show it to the men. I say, "Now, if you want to pay in, all right. If you don't, all right too. It don't make no difference to me, because I don't pay it."

Q. You have never heard them referred to as assessments? A. No, sir. When this thing started out, I was, well, in favor of it, and it was always voluntary, to my knowledge; never an assessment.

Mr. Riddle: All right. I have nothing further of this witness.

Redirect Examination.

By Mr. London:

Q. May I see those checks for a moment? A. Yes, sir.

(The witness handed checks to Mr. London.)

(Thereupon defendant Union Local 562's Exhibits V, W, X and Y were marked by the reporter for the purpose of identification.)

Q. Mr. Quinn, I am going to hand you that which has been marked for identification purposes as Local 562's Exhibits V, W, X and Y, and ask you, sir, if you can identify those four documents for me? A. These checks?

Q. Yes, sir. Just for the record, sir, tell us again [1,210] what they are. A. These are checks that I had my wife make out, which she kept a record, of the Voluntary Fund, and we mailed them in whenever we saw fit to mail them in.

Q. Directing your attention, sir, to Exhibit V, would you tell us the date on that check, sir? A. Exhibit V is January 1, 1965. Do you want the amount?

Q. Please. A. The amount to the Pipefitters Voluntary Fund, \$63.00.

Q. It is payable to the Pipefitters Voluntary Fund? A. Voluntary Fund; yes, sir.

Q. And the signature on that check, sir? A. Irene B. Quinn, which is my wife.

Q. And would you turn it over on the reverse side, please? Does it bear an endorsement? A. "Pay to the order of City Bank, Pipefitters Voluntary Political, Educational, Legislative, Charity and Defense Fund." 3-17, the date is on there too.

Q. I am going to hand you, sir, now Exhibit W. Give me the date. A. February 21, 1965.

Q. The amount? A. Pipefitters Voluntary Fund, \$40.00.

[1,211] Q. Payable to the Pipefitters Voluntary Fund?

A. Signed by Irene B. Quinn, payable to the Pipefitters Voluntary Fund.

Q. And the endorsement on the reverse side, sir? A. "Pay to the order of City Bank, Pipefitters Voluntary Political, Educational, Legislative, Charity and Defense Fund."

Q. Handing you now Exhibit X, would you give me the date? A. July 15, 1965.

Q. And who is it payable to? A. Pay to the order of Pipefitters Voluntary Fund.

Q. And the amount? A. \$98.00.

Q. Signature? A. Irene B. Quinn, my wife.

Q. You recognize that signature? A. Yes, sir.

Q. And the endorsement? A. "Pay to the order of City Bank, Pipefitters Voluntary Political, Educational, Legislative, Charity and Defense Fund."

Q. I hand you now Exhibit Y. The date, sir? A. December 31, 1965.

Q. And payable to whom? A. Pipefitters Voluntary Fund.

Q. And the amount? [1,212] A. \$102.00.

Q. Signature? A. Irene B. Quinn, my wife.

Q. And the endorsement? A. "Southwest Bank of St. Louis, Pipefitters Voluntary Political, Educational, Legislative, Charity and Defense Fund."

Mr. London: If the Court please, I offer Local 562's Exhibits V, W, X and Y into evidence.

Mr. Riddle: No objection from the Government, Your Honor.

The Court: Be received.

(Whereupon defendant Union Local 562's Exhibits V, W, X and Y were received in evidence.)

Q. (By Mr. London) One question, Mr. Quinn. When you stopped contributing to the Voluntary Fund, did you stop paying your Union dues and assessments? A. No, sir.

Q. You continued paying your Union dues and assessments, sir? A. Well, at that time, I believe they were being taken out by the company.

Q. And so you are still paying those? A. Naturally. This is my bread and butter.

Mr. London: Thank you.

[1,213]

Recross-Examination.

By Mr. Riddle:

Q. Do you know what those checks total? A. No. I never did add them up. My wife can tell you though. She is my bookkeeper, and everything.

Q. Did you make any political contributions that year, 1966? A. Personally?

Q. Yes. A. No, sir, I did not.

Q. What about the next year, '67? Did you make any political contributions? A. No, sir.

Q. What about 1968, this year? A. None.

Q. Your testimony is that you have never made a political contribution to the party of your choice, or to any candidate? A. No, sir, I have not.

Q. Since the last contribution that you made to this Political Fund? A. That is true.

Mr. Riddle: That's all.

The Court: Step down.

(Witness excused.)

[1,214] **ARTHUR E. MURPHY,**
being first duly sworn, testified in behalf of the defend-
ants as follows:

Direct Examination.

By Mr. Daly:

Q. Would you state your name, please? A. Arthur E. Murphy.

Q. Your address, Mr. Murphy? A. 3900 Cordes Drive, Mehlville, Missouri.

Q. Is that in St. Louis County? A. It is.

Q. And with whom do you live there, sir? A. With my wife and five children.

Q. Now, are you employed at this time, Mr. Murphy?
A. I am.

Q. For whom are you employed? A. Kramer-Hicks and Company, mechanical contractor.

Q. And what is your position with Kramer-Hicks?
A. I'm the field superintendent, or known as the riding boss.

Q. How long have you held this position? A. Approximately six months.

Q. And prior to that, what position did you hold for Kramer-Hicks? A. General foreman.

[1,215] Q. How long have you been general foreman? A. Approximately a little over two years.

Q. And before that two-year period, by whom were you employed? A. Natkin and Company.

Q. How long have you been with them? A. About eleven years.

Q. And what position did you hold for Natkin? A. Most of the time, as general foreman or area foreman.

Q. I see. Now, are you familiar with the Voluntary Fund? A. Yes, sir.

Q. And do you contribute to the Fund? A. I do.

Q. And, Mr. Murphy, have you made some collections for the Fund? A. I have.

Q. And in doing the collection, have you distributed the Voluntary Fund Cards to people who came out to work? A. I did.

Q. All right. When you gave the men the card as they came out to work, what, if anything, did you tell the men about the card? A. I told them they could read the card. I thought it was self-explanatory. Anything they did not understand about [1,216] it, I would try to explain to them.

Q. Did you ask them to sign it, or not sign it? A. I asked them if they would like to sign it, that's right.

Q. Did most of the men who came to work for you sign the card? A. As I can remember, none have ever refused.

Q. Then you collected the money; is this correct? A. I did.

Q. After you collected the money, what, if anything, did you do with the money? A. Well, I would take it and collect it, and then I would either turn it in myself, or as a convenience, if some of the members was going down to the Local at the office of the Voluntary Fund there, which was in the building of the Local, I'd have them take it down for me.

Q. I see. And are you now collecting for the Fund? A. I collect it after the various foremen on the job do. They collect it, and then I pick it up as a convenience.

Q. Now, as field superintendent for Kramer-Hicks, how many people do you have under you, Mr. Murphy? A. Approximately eighty-five.

Mr. Daly: I have no further questions.

What political party do you belong to, Mr. Murphy?

[1,217] A. Well, I favor the Democratic.

Cross-Examination.

By Mr. Riddle:

Q. Sir, do you have men working on your job now who are out-of-town members? A. Yes, I do.

Q. Out of the eighty-five men, what percentage of them are out-of-towners? A. Oh, I don't know the exact number. Let me think. I'd say there is a good possibility that there's fifteen or twenty of them.

Q. Fifteen or twenty? A. Yes, sir. I would say this is approximate.

Q. And those fifteen or twenty out-of-towners are paying into the Fund how much now? Do you know what the rate is? A. Yes; \$2.00 a day.

Q. \$10.00 a week for a 40-hour week? A. Yes, sir.

Q. And the regular members are paying into it what? A. 50 cents a day.

Q. Sir, have you had any conversation with any of the out-of-towners about the disparity, or the difference in this rate? A. No, sir.

[1,218] Q. You have never talked to any of them about the spread between 50 cents and \$2.00? A. They have never brought it up to me, sir; no, sir.

Q. Do you know if they are aware that there is a spread? A. Oh, yes, sir.

Q. Sir, do you know how the out-of-towners find out, the ones that work on your job, find out that they are to voluntarily contribute \$2.00 a day? A. May I ask you to rephrase that? I didn't understand you, sir.

Q. Do you know how the out-of-towners find out that they are to voluntarily contribute \$2.00 a day? A. Well,

if they had not worked on any other job previous to coming in the company, they are explained to them on the job. Now, this is one method. There may be other methods though of them finding out, but this is my dealings with it. But the foreman of the job would explain it to them if I hadn't. I could not, do not see all the men.

Q. Do you make an explanation to any of the out-of-towners as to this rate? A. If any of them ask me, sir, yes, sir.

Q. Have you made an explanation to the \$2.00 a day they pay and the 50 cents a day that the regulars pay? A. They have never questioned me on it.

[1,219] Q. Did you volunteer to tell them there was a difference? A. I didn't volunteer anything without being questioned on it.

Q. Well, now when you talked to them, did you tell them, now, Mr. Out-of-Towner, those of us here in the St. Louis Local, we just decided to voluntarily pay 50 cents a day. Now, some out-of-towners voluntarily pay \$2.00 a day. Now, which one would you rather pay, 50 cents or \$2.00 a day?"

Did you ever make that clear to them? A. I never had any conversation along that line, sir, at all with them.

Q. They didn't have a choice to volunteer to pay 50 cents a day? A. To my knowledge, I didn't know of any that they had or had not; no, sir.

Q. If they had a choice of paying less than \$2.00 a day, namely 50 cents a day, that you don't know about that? A. I don't know about that; no, sir.

Q. The only choice of contribution made to them was the \$2.00 a day charge? A. The only choice that I was telling you, in all previous dealings, that all the out-of-towners always donated \$2.00 a day.

Q. Did any of them want to donate a little bit more [1,220] than \$2.00 a day? A. Not to my knowledge, no, sir.

Q. No, sir. And none of them offered to donate less than \$2.00 a day? A. They had never questioned me on it.

Q. Are you familiar with the term "doby"? A. Oh, that's a slang word that is used through the trade; yes, sir.

Q. It is widely used among the people on your jobs, isn't it? A. Not necessarily. I think it is more in the line, what we call in the pipeline business, more than anything else.

Q. What is your understanding of what a doby is? A. Well, I tell you I'd really like to have an interpretation to me sometime. Who explained it or who started the word, I really don't know.

Q. Sir, could the people, the ones that you have heard, do they call this \$2.00 a day payment a doby? A. Not to my knowledge; no, sir, not the ones that I am in contact with.

Q. The ones that you are in contact with use the word doby? A. No, sir.

Q. They don't? [1,221] A. No, sir, they don't use the word doby; no, sir.

Q. Sir, do you remember when your Voluntary payments were reduced from \$1.00 a day to 50 cents a day?

A. The date, you mean, sir?

Q. Yes. A. From a dollar a day to fifty cents a day. It seems like it could have been back about two years or so, I think.

Q. January 1 of '66? A. That sounds about right. I say that's as close as I could remember about it, sir.

Q. Do you remember when the assessments of the Union went up? A. The assessments of the Union? Or the take-out?

Q. Yes. A. Approximately around the same time, I'd say.

Q. The same time? A. I'd say so, yes, sir.

Q. They went up 50 cents, and the others went down 50 cents? A. Well, I don't know if it was in that proportion, but if you say so—I never did measure it out in proportion, dollar to dollar.

Q. When there was a decrease from 50 cents from the regular members, was there any complaint about that on the job? [1,222] A. No, I don't think so. I don't think anybody, that I can recall.

Q. On the day that you announced that the contributions hereafter would be 50 cents a day— A. Um himm.

Q. —did anybody decide that they wanted to continue to pay a dollar a day? A. Not to my knowledge; no, sir.

Mr. Riddle: I have nothing further of this witness.

Mr. Daly: No questions.

The Court: Step down.

(Witness excused.)

ROBERT SANDERS,

being first duly sworn, testified in behalf of the defendants as follows:

Direct Examination.

By Mr. Randall:

Q. Mr. Sanders, would you state your full name, please, sir? A. Robert H. Sanders.

Q. Where do you live? A. 7619 Folk, in Maplewood.

Q. Do you own your home there, sir? A. Buying it.

[1,223] Q. Mr. Sanders, are you a member of Pipefitters Local 562? A. Yes, sir.

Q. And how long have you been a member, sir? A. Twenty-seven years, this month.

Q. And where are you presently employed? A. Labadie Powerhouse.

Q. And how long have you been on that job, sir? A. February this year.

Q. Now, Mr. Sanders, are you familiar with the Pipefitters Voluntary Fund? A. Very much so.

Q. Did you ever sign a Contribution Card? A. Yes, sir.

Q. Have you paid or contributed into the Fund? A. Part-time, yes; part-time, no.

Q. All right. Would you tell us when you contributed, and when you have not contributed, sir? A. Oh, when it first started I contributed for a while off and on, and then I just quit paying it.

Q. How long has it been since you made your last contribution? A. Oh, about, I don't know; a year, or a year and a half; I don't know how long it's been; quite a while.

Q. I see. Now, sir, since you have quit contributing, [1,224] and during the other times when you didn't contribute, did anyone speak to you about the fact that you were not contributing to the Voluntary Fund? A. No, they didn't bother me.

Q. No one came to you at all? A. No.

Q. Have you been working all the time? A. Every day.

Q. And what is your politics, sir? A. Democrat.

Mr. Randall: You may inquire.

Cross-Examination.

By Mr. Riddle:

Q. Sir, over what period of time did you pay into the Fund? A. 1963 and part of 1964.

Q. '63 and a part of '64? A. Yes, I guess that's what it was.

Q. Do you remember the job that you were on that you decided to quit paying? A. I was working for Natkin and Company at the time.

Q. On the Portage des Sioux job? A. No, no.

Q. What job were you on? [1,225] A. Well, I was a shop foreman. I was working for Natkin and Company.

Q. And they have a general office around here? A. Yes, sir.

Q. Is there any particular reason why you stopped paying? A. Oh, I had a little financial trouble. I could use the money, and I was using it for that.

Q. Sir, you said up until about the middle of 1964? A. Somewhere in that area.

Q. You paid. Did you pay regularly up until then? A. No.

Q. You didn't pay regularly up until then? A. No.

Q. Sir, do you know a foreman by the name of Harold A. Foley? Hal Foley? A. Yes, sir.

Q. Who is he? A. He is my general foreman on the job where I am working.

Q. Now? A. Yes, sir.

Q. How long have you been working on that job under him? A. He started about three months ago, I believe. I was there since the last of February, or the first week in March, something like that, and he come on the job a few months later.

[1,226] Q. Sir, at the time that Mr. Foley was your boss, did you make any payments directly to him? A. No, sir.

Q. Never did? A. Never did.

Q. Did you ever try to make any payments to him? A. No, sir.

Q. Did he ever refuse to take any? A. No, sir.

Q. Sir, I want to ask you a specific question. I want to ask you if, on one occasion, you went up to Mr. Foley and asked him if you could pay some money into the Fund, and that Mr. Foley wouldn't accept your money because it was not OK'd by Director Callanan? Did that happen? A. Oh, let's see. I think I forgot about that.

Q. Yes, sir. A. At another job.

Q. Yes, sir. Tell the Court and jury about that. A. That was at Portage des Sioux.

Q. Yes. A. I told him I was a little better financially fixed; if it is all right if I started paying this, and he said he'd let me know, and after he told me that, well, I had no word from him for a couple weeks, and come back and said it [1,227] was OK if I didn't want to pay it, OK. As far as I—

Q. What did he say—Who did he say he talked to? A. I can't remember. I can't remember if he said he talked to anybody.

Q. Sir, did he tell you that he wasn't to accept your money unless it had been OK'd by Director Callanan? A. Well, I can't recollect this at all. All I know is he said I didn't have to pay it.

Q. Did he say why you didn't have to pay it? A. No, sir. There was no prolonged conversation about it at all. It was just this is it, and that's it.

Q. Did you offer to pay him on more than one occasion? A. No.

Q. Were you the only person not paying on that job? A. I don't know. I don't inquire into anybody else's dealings, what they do. I don't know.

Q. Have you ever talked to Mr. Callanan about paying into this Fund at any time? A. Yes, I talked to him.

Q. When did you talk to him? A. Oh, about a year and a half ago, two years ago.

Q. Where were you when you talked to him? A. Down at the Union hall.

Q. And what was the purpose for you talking to him? [1,228] A. Well, my main reason was to see was it all right. I hadn't paid for a while, and if I wanted to go down and pay it, I still was financially not fixed, so I just talked to him about it, about paying it, that is all, and he said, well, wait till you—"Don't pay it."

Q. Sir, were you behind at that time with your payments? A. Yes, sir.

Q. And you were worried about it? A. Worried about it!

Q. Yes, sir. A. No, I wasn't worried about it.

Q. Were you concerned about it? A. Well, I was, bein's I was working with the other men, and they were all paying it, and I wasn't, I was concerned that way.

Q. So you decided, because of that, you'd better go down and talk to Mr. Callanan about it? A. Yes, let him know.

Q. And did you? A. Yes.

Q. And you told him you had some financial difficulties and weren't in very good shape, and didn't want to pay it? A. That's right.

Q. And wanted to be excused from paying it? [1,229] A. That's right, I told him I'd pay it, as I wanted to pay it now week by week, but when I could see myself clear to pay it, periodically.

Q. Yes, sir. And then did you finally get yourself straightened out? A. Yeah, I got straightened out pretty good.

Q. Have you caught up completely? A. Not too completely, but I'm caught up pretty fairly well now.

Q. Are you still catching up? A. I don't think I will ever catch up.

Q. How much are you behind now? A. Are you talking about the payments by me into this Fund?

Q. Yes. A. Oh, I don't know. I haven't any idea.

Q. So you, sir, when you went out to this job at Portage des Sioux and Mr. Foley was your foreman, did you and Mr. Foley talk about Mr. Callanan's instructions about your payments? A. No, sir.

Q. You did not? A. No, sir.

Q. Well, now, did you give Mr. Foley any explanation [1,230] as to why you weren't paying? A. No, sir.

Q. Did you tell him that you had been approved by Mr. Callanan for exemption? A. No, sir.

Q. You didn't tell Mr. Foley that? A. No, sir.

Q. Who did you tell that you had talked to Mr. Callanan and gotten permission not to pay? A. I didn't tell anybody.

Q. You didn't tell your foreman who came around to collect? A. Nobody asked me to pay. I didn't have to.

Q. Yes, sir. Well, sir, if you didn't have to pay, why did you go in to talk to Mr. Callanan in the first place? A. Well, because we needed finances for whatever they were using it for, and to help keep us going, and everything like that, so I just went in to tell him that I couldn't pay for a while. That's what there was to it.

Q. You felt that you better make some explanation? A. Yes, sir.

Mr. Riddle: That's all.

The Court: Any redirect?

Mr. London: One moment.

[1,231] Mr. Daly: One moment, sir.

Mr. Randall: No questions.

The Court: All right. Step down. Call your next witness.

(Witness excused.)

R. L. KNEEMILLER,

being first duly sworn, testified in behalf of the defendants as follows:

Direct Examination.

By Mr. London:

Q. State your name, please. A. Robert Kneemiller.

Q. Where do you live, Mr. Kneemiller? A. 3102 St. Nathan, St. Ann.

Q. Do you own your property out there? A. Yes, sir.

Q. Are you a married man with a family? A. Yes, sir; four children.

Q. Are you a member of Local 562, sir? A. Yes, sir.

Q. How long have you been a member? A. About seven-teen years.

Q. Where are you working now, Mr. Kneemiller? A. I am the riding boss for a contractor here in [1,232] St. Louis.

Mr. Riddle: I can't hear you, sir.

The Witness: I am a riding boss for a contractor here in St. Louis.

Q. (By Mr. London) What is the name of that contractor? A. Sodemann Heat and Power.

Q. Mr. Kneemiller, are you familiar with the Voluntary Fund? A. Yes, sir.

Q. Do you contribute to the Fund? A. Yes, sir.

Q. Did you sign a card for a contribution? A. Yes, sir.

Q. Do you do some collecting for the Fund? A. Yes, sir.

Q. And how do you go about doing the collecting that you do, sir? A. I receive it from the foremen on the job.

Q. Do you have some foremen working under you? A. Yes, sir.

Q. And they actually collect the money from the men, and then they turn it over to you; is that correct? A. Yes, sir, that's correct.

Q. And you bring it down to the Fund office? [1,233] A. Yes, sir.

Q. Do you hand out any of the cards to the men that, on your job, sir? A. No, sir.

Q. Do you know who does? A. The foremen usually do. I leave the cards with the foremen.

Q. Have you ever worked on a job where anybody didn't contribute into the fund? A. No, sir, not that I know of.

Q. Ever work with an August Heideman? A. Well, this is prior to—this goes back to an apprenticeship. I worked with him. He did not contribute.

Q. Let me ask you, sir; do you ever attend any meetings of the Voluntary Fund? A. Yes, sir.

Q. Where are these meetings held, sir? A. It was at Electricians hall.

Q. Do you recall, sir, what is done at these meetings? A. We talk over our political things of who we want to support, or for the welfare of someone that we want to help.

Q. Do you have a voice—do you and the other members have a voice in the discussion that takes place?

Mr. Riddle: I object to that.

[1,234] The Witness: Yes, sir.

Mr. Riddle: I object to that. That calls for a conclusion. He can state whether there are votes, or minutes, or that sort of thing. That is a conclusion.

The Court: It was leading. Don't ask him any leading questions, Mr. London.

Q. (By Mr. London) Let me ask you about the procedure at these meetings, Mr. Kneemiller. Do members at these meetings have an opportunity to speak? A. Yes, sir, they do.

Q. Do candidates ever appear at these meetings? A. Yes, sir. I have heard some.

Q. And who are some of the candidates you have heard, sir? A. To pick a name for sure, I think I heard Long, but the rest right now I couldn't come up with. No, Long wasn't. Who else? To pick a specific name right now, I cannot.

Q. Was there any kind of a screening committee of this Fund, sir? A. Yes, sir.

Q. What do you mean by screening committee? A. That they interview him to see how he'd feel for the majority of us.

Q. They'd discuss the various candidates? A. Yes, sir. I'd say interview them.

[1,235] Q. And determine their position as to labor? A. Yes, sir.

Mr. Riddle: I object to this leading and suggestive type of question, Your Honor, of his own witness.

The Court: All right. Don't lead him.

Mr. London: I have no further questions.

Cross-Examination.

By Mr. Riddle:

Q. Your name is N-i-e-m-i-l-l-e-r, sir? A. No, sir. It is K-n-e-e.

Q. K-n-e-e? A. m-i-l-l-e-r.

Q. Sir, you said that as far as you know, every person working on your jobs, and jobs under your supervision had paid into this Fund? A. Yes, sir.

Q. Did they pay into it each week? A. I do not know if they paid into it each week. I couldn't say this, because for myself I have done it monthly, sometimes every two months, sometimes weekly.

Q. Yes, sir. The one exception that you mentioned was a fellow by the name of Dittman? A. No, sir. Gus Heideman.

Q. Gus Heideman. You say Gus Heideman did not pay? [1,236] A. This goes back, yes, sir, quite a ways back to when I was an apprentice and worked with him.

Q. And he was an apprentice? A. No, sir. I was.

Q. You were an apprentice? A. Working for him.

Q. You didn't pay when you were an apprentice? A. No, sir.

Q. Well, are apprentices exempt from paying assessments, dues? A. They pay Union dues; yes, sir.

Q. What about assessments? A. Right now, with the apprentices I have got, I have never looked to see if the three and three-quarters comes out of their checks.

Q. Do you have an apprentice out there now? A. We have one in the shop; yes, sir.

Q. What is his name? A. Kenneth Ross.

Q. Kenneth Ross? A. Yes, sir.

Q. Now, as an apprentice, do you collect money from him each week into this Fund? A. No, sir, I don't.

[1,237] Q. Does anybody? A. I do not know.

Q. Well, aren't apprentices exempt from paying into the Voluntary Fund? A. This, I don't know.

Q. I see. You say that you ride around to various jobs?
A. Yes, sir.

Q. And you take out the Voluntary cards and distribute them around the jobs? A. If they are going to hire, I try to see that the foreman has these cards, his employment cards, state, federal, and I usually put these with it.

Q. You take the state and federal forms? A. Yes, sir.

Q. That new employees have to sign, and Volunteer cards right along with them? A. Yes, sir.

Q. And drive around, and just drop them all off at the same time? A. Well, no, sir. I go around to see them, to supervise their installation, and if I know we need men, or are hiring men, I will make sure they have them on the jobsite.

Q. Then the foremen on the jobsites make the actual collections? [1,238] A. Yes, sir.

Q. Then they turn them over to you? A. Yes, sir.

Q. And you take them in to the Union hall? A. To the Voluntary Fund.

Q. Yes, sir. Sir, are the foremen, in most instances, also stewards of the Union? A. No, sir.

Q. They aren't? A. Everyone, to me, like I say, is a steward, but classing as job stewards, no, they are not. They are the foremen of the job.

Q. If there is a steward on the job, and foremen on the job, who do you leave these forms with? A. I have it in an envelope, and I leave it completely with the foremen.

Mr. Riddle: I have nothing further.

Mr. London: Nothing further, Your Honor.

The Court: Step down.

(Witness excused.)

HOMER KISSEL,

being first duly sworn, testified in behalf of the defendants as follows:

[1,239]

Direct Examination.

By Mr. Daly:

Q. What is your name, please? A. Homer Kissel.

Q. And where do you reside, Mr. Kissel? A. 10233 Marble Arch Lane.

Q. Where is that, sir? A. Affton, Missouri.

Q. Buying that property out there? Do you own that, or are you renting that? A. No, I am renting.

Q. I see. Are you employed at the present time, Mr. Kissel? A. Yes, I am.

Q. And by whom are you employed? A. Sodemann Heating Company.

Q. For how long have you been with Sodemann? A. Two months.

Q. For whom did you work prior to the time you were with Sodemann? A. Natkin's.

Q. Natkin? A. Yes.

Q. What is their business? [1,240] A. Piping contractor.

Q. Are you presently a member of Local 562? A. Yes, I am.

Q. And how long have you been a member of 562? A. Since July—I mean January 1st, '66.

Q. That would be almost two years you have been a member? A. Yes, sir.

Q. A year and nine or ten months?

The Court: This is September.

Mr. Randall: '66.

The Court: July '66.

Mr. Randall: I am sorry. Have you been a member—

A. No. I said January, '66.

The Court: OK. Then it is even more.

Q. (By Mr. Randall) About a year and nine months? Two years and nine months? A. Two years and nine months.

Q. All right. Now, are you familiar with the Voluntary Fund? A. Yes, I am.

Q. And do you contribute to the Voluntary Fund at this time? A. Yes, I do.

[1,241] Q. And are you a foreman, or steward, or journeyman? What is your designation? A. I am a journeyman.

Q. Not a foreman? A. No.

Q. Are you a steward on the job? A. No.

Q. Did you work as a pipefitter prior to the time that you became a member of 562? A. Yes.

Q. You were then working under—the designation would be out-of-towner; is that correct? A. That isn't what I would call it.

Q. What would you call it? A. I would call it the permit man.

Q. What local did you belong to at that time? A. Boilermakers Local 27.

Q. You were working as a pipefitter under 562 jurisdiction? A. That's right.

Q. Did you contribute to the Voluntary Fund at the time that you were working as a permit man, as you call it? A. That's right.

Q. Were the contributions you were making at that time [1,242] voluntary, Mr. Kissel? A. Yes, they were.

Q. And you are now contributing as a member of 562?

A. That's right.

Q. Are the contributions you are making at this time voluntary? A. They are.

Q. How long were you a member of the Boilermakers?

A. Twenty-two years.

Q. Did you ever have any office in the Boilermakers union? A. Yes, I did.

Q. What office did you hold, sir, in the Boilermakers union? A. I was the business manager.

Q. Now, let me ask you this: During the time that you were business manager of the Boilermakers, or even before that, did the Boilermakers have a voluntary fund?

A. Yes.

Mr. Riddle: I am going to object to that as being completely immaterial, aside from any issue here.

The Court: Come up.

(Thereupon the following colloquy ensued among the Court and counsel, at the bench, out of the hearing of the jury:)

[1,243] The Court: Why is it immaterial?

Mr. Riddle: As I understand it, they are talking about the—he is asking about a voluntary fund at another local.

The Court: Yes.

Mr. Riddle: And first off, whether another local has a fund is completely irrelevant to any issue here. Of course, in order to make the parallel, it would require a thorough development as to whether it was or wasn't voluntary, and to have counsel characterize it as voluntary, say.—

The Court: Of course, whether it is voluntary or not is not the essence of this case anyway, is it?

Mr. Riddle: It is really not the essence; no.

The Court: I don't see where—and you are going to open up an unlimited cross-examination.

Mr. Daly: All right. You are sustaining the objection?

The Court: Well, I will sustain it when you go back. I will sustain it in front of the jury.

(Thereupon the trial was resumed before the jury as follows:)

The Court: Sustained.

Q. (By Mr. Daly) As I understand your testimony, Mr. Kissel, you were actually the business manager at one time [1,244] of 127, the Boilermakers; is that right? A. That is true.

Q. Following that, you worked as a permit man with Local 562? A. That's right.

Q. During this time, you contributed to the Fund that they have; is that correct? A. That's correct.

Q. You since have become a member, and you are now contributing as a member? A. That's right.

Q. Are these contributions on your part voluntary? A. Yes, they are.

Q. Are you related to any of the defendant's, Mr. Callanan, Lawler, or Seaton? A. No.

Mr. Daly: Your witness.

Cross-Examination.

By Mr. Riddle:

Q. Sir, do I understand your testimony to be that you worked on 562 jobs before you became a member of that Local? A. That's right.

Q. Over what period of time did you work on 562 jobs prior to becoming a member? [1,245] A. Approximately two years.

Q. That would be the years of '64 and '65? A. That's right.

Q. During the year '64, do you recall what you were paying into that Fund? A. The amount?

Q. Yes. A. I believe I contributed \$5.00 a week.

Q. \$5.00 a week? A. My contributions, I believe; \$5.00 a week.

Q. Before you joined 562? A. Yes. This is what I contributed.

Q. You don't recall it being \$10.00 a week? A. Not what I contributed was not \$10.00 a week.

Q. You never contributed \$10.00 a week into this Fund? A. I contributed \$5.00 a week.

Q. Throughout the period of time that you worked on any 562 job? A. There was a period of approximately six weeks when I didn't contribute.

Q. About when did you not contribute? A. That's right.

Q. When was this? A. Well, I went to the hospital, and after I got out, [1,246] I lost work and I couldn't afford it. I didn't feel like I could make the contribution.

Q. Did you make an explanation of that to someone? A. No.

Q. Tell your foreman why you couldn't contribute at that time? A. No.

Q. You didn't? A. No.

Q. Sir, did you contribute throughout 19 and '66, and particularly throughout the period of the Callanan Gift Fund?

Mr. Daly: May we renew our objection to this, Your Honor? Ask that be stricken, jury instructed to disregard it, and a mistrial be declared.

The Court: Be denied in all respects.

Q. (By Mr. Daly) Did you contribute to the Callanan Gift Fund? A. Yes, I did.

Q. How much did you contribute to that? A. \$2.50 a week.

Q. \$2.50 a week? A. Yes.

Q. How come—well, strike that. Did you attend any meeting when that Gift Fund, Callanan Gift Fund was discussed? [1,247] A. I was at the meeting.

Mr. Daly: Your Honor, may I object to this entire questioning, rather than to rise each time and object to each question?

The Court: All right. In relation to this line of interrogation about the Gift Fund.

Q. (By Mr. Riddle) How long did you pay in to that Fund? A. I believe it was approximately two months; somewhere in there.

Mr. Riddle: I have nothing further from this witness.

The Court: Anything else?

Mr. Daly: I have no redirect, Your Honor.

The Court: All right. Step down.

(Witness excused.)

The Court: We might as well have our afternoon recess at this point.

Members of the Jury, bear in mind the admonition I have given you heretofore.

(Following a brief recess, the further following proceedings were had before the jury:)

THOMAS COX,

being first duly sworn, testified in behalf of the defendants as follows:

[1,248]

Direct Examination.

By Mr. Randall:

Q. Would you state your full name, please, sir? A. Earl Thomas Cox.

Q. Where do you live, sir? A. 1053 Coalbank Road.

Q. What city? A. Spanish Lake.

Q. Are you a member of Pipefitters Local 562? A. I am not.

Q. Have you ever worked under the jurisdiction of Pipefitters Local 562? A. Yes.

Q. And how long have you worked under their jurisdiction? A. About a year and a half.

Q. Where have you worked? A. At Hussmann Distributing Company.

Q. Are you a member of any union? A. No.

Q. Now, while you have been working under the jurisdiction of Pipefitters Local 562, have you contributed to the Pipefitters Voluntary Fund? A. I have.

Q. Have you always contributed to it? [1,249] A. No, sir.

Q. Would you tell us how you have made your contribution, and during what period of time, sir? A. Period of time, I don't think that I could state accurately. As far as how, sometimes I sent it to the hall. Sometimes I gave it to the steward at the job. Just different instances when I was there and I felt that—I figured that I had the extra money and the contribution is a great thing, so I gave it to a steward, and in turn he would take it to the hall. But I never give it to any person other than a shop steward or someone at the hall.

Q. Well, what percentage of the time that you have been working have you contributed, sir? A. Oh, percentage, I don't know, really. Sometimes I will give twice a month. Sometimes I'll give every week during the month. Other times I will just maybe not give it that month at all. It depends on how much money that I have left over, what bills and other obligations that I have.

Q. I see. And have those contributions been voluntary?

A. Yes, sir, they have.

Q. Did anyone ever speak to you about whether or not you could not work if you do not contribute? A. No, sir.

Q. And are you still working, sir? [1,250] A. Yes, sir.

Q. And what political party do you belong to? A. I'm a Democrat.

Mr. Randall: You may inquire.

Cross-Examination.

By Mr. Riddle:

Q. Sir, it wasn't clear to me just what your position is. Are you, at the present time, a member of 562? A. No, sir.

Q. I see. A. I am working in 562's jurisdiction as a service man.

Q. You are working in 562's jurisdiction? A. Yes, sir.

Q. As a service man? A. Yes, sir; refrigeration service man.

Q. And you have been working in that fashion for how long? A. A year and a half at the Hussmann Distributing Company.

Q. Sir, you say you make a contribution ever so often to the Union steward? A. This is one person that sometimes I give this contribution to, to turn it in to the hall for us, because we can't be going down every time that

we want to contribute, so he has been delegated to take the money to the hall, and this [1,251] is why I give it to the shop steward.

Q. How many people work there with you? A. At this shop? I'd say between twelve and twenty.

Q. Are they all members of 562? A. I don't know, sir.

Q. Do they all pay into the Fund? A. I don't know that either, sir.

Q. Are you the only non-union member working there? A. To my knowledge, I am. I don't know anyone else. I don't know if they are belonging to a union or not. I don't ask them, and they don't tell me, so I really don't know.

Q. Who first told you about the Fund? A. I don't remember who first told me. I was informed of it shortly after I went to Hussmann Distributing Company, that if I wanted to I could pay into this Fund, and—

Q. How long had you been working when you were told that? A. Two or three weeks, I'd say.

Q. Are you an applicant for membership in Local 562? A. I've never made out an application for membership, if that is what you mean.

Q. Yes. Are you planning to become a member of 562? A. In the future, if they feel that they need me in the Local as a refrigeration man, yes, sir, I will join this Local.

Q. When do you expect this to happen? [1,252] A. I don't know.

Q. Will you go in any time they invite you? A. Yes, sir, I would.

Q. Do they know you will come in any time they will invite you? A. I don't know. This is something I'd have to guess. I would say they will probably accept me; yes, sir.

Q. You say you have no written application pending?
A. No, sir.

Q. Do you have an oral application pending? A.
Well, —

Q. For membership? A. No, sir; not an application; no. If you are working at the trade, and they need members in the Local, then if you know your business, then you are going to be taken into the Local, but they are not going to take somebody that doesn't know their business. They have to have people that know their trade, so if you know your trade, then you would be accepted.

Q. What is keeping you from going in right now? A.
I don't think I have enough experience.

Q. Are you an apprentice? A. No, sir, I am not. I took a course at Rankin Trade School in 1958 for refrigeration. I went in the service, [1,253] had refrigeration and copper work in the service. After I got out of service, I had various different jobs, different states. Then when I went with the engineers, I worked as a refrigeration man. I left there. I called 562's hall and asked if they needed any men for refrigeration or air conditioning work. They said they did. They put me to work at Hussmann Distributing Company, and I've been there ever since.

Q. The Union put you to work out there? A. Yes, sir.
Yes, sir.

Q. All right. I see. Who in the Union hall sent you out there? A. I don't remember who it was. You go to the hall, and you go up to the window, and who is there at the time dispatches you, but I couldn't remember who it was.

Q. Anything said to you about this Fund down at the hall when you were trying to get sent out on a job? A.
No, sir.

Q. And you were out there about two weeks or so before — A. Two or three weeks. I don't know for sure now, but I would say it was around then.

Q. Did you sign a card telling them how much you would contribute? A. No, sir.

[1,254] Q. What do you base your contributions on? The number of hours you work? A. No, sir. I base it on whatever money I have left, five, ten dollars this week that I think I can spare.

The Court: Just a minute. Just a minute.

(There was a short interruption.)

The Witness: Five, ten dollars a week that I feel that I can afford to contribute to this, this is what I'll give. Other weeks I may give five. Then there have been weeks that I have contributed twenty. It is just whatever I have left over.

Q. Sir, have you been told what this money is being used for? A. I have been told that this money is used to back political persons that are labor people. In other words, they advocate labor, and I think that if this is a fund that will back a labor party, because this is a labor organization, there should be more of them.

Q. Sir, have you attended any meetings down at the hall? A. No, sir, I haven't.

Q. Have you been invited to attend any of the meetings? A. No, sir.

Q. Have you ever heard of a Political Fund meeting? A. No, sir.

[1,255] Q. Do you understand that there is an accounting of these monies? A. Yes, sir.

Q. Who told you that all the monies paid in are accounted for? A. I don't remember who it was, but if

you pay money into something, there is always an accounting of it.

Q. Almost. A. No, sir. All the time.

Mr. Riddle: Nothing further.

Mr. Randall: I have one further question.

The Court: All right.

Redirect Examination.

By Mr. Randall:

Q. Sir, are you working as a journeyman pipefitter at this job that you are now holding? A. Yes, sir.

Mr. Randall: That's all.

The Court: All right. Step down. Call your next witness.

(Witness excused.)

CECIL DEWEESE,

being first duly sworn, testified in behalf of the defendants as follows:

[1,256]

Direct Examination.

By Mr. Daly:

Q. Would you state your name, please? A. Cecil Deweese.

Q. Where do you reside, Mr. Deweese? A. 803 Allegheny, Lemay, Missouri.

Q. Where is that? A. 803 Allegheny.

Q. Where is 803 Allegheny? A. Lemay, Missouri.

Q. Now, are you employed at this time, sir? A. Yes, sir.

Q. And for whom are you employed? A. Kramer-Hicks.

Q. And how long have you worked for Kramer-Hicks?
A. About six months.

Q. And where were you employed, or for whom were you employed prior to this? A. Kaiser Engineers from California.

Q. And are you a member of Local 562, Mr. Deweese? A. Yes, sir.

Q. How long have you been a member of Local 562? A. Thirty years.

Q. Now, are you familiar with the Voluntary Fund? [1,257] A. Yes, sir.

Q. And do you contribute, sir, to the Voluntary Fund? A. Yes, sir.

Q. And is that contribution that you make voluntary? A. Yes, sir.

Q. Now, sir, have you ever been to any of the Voluntary Fund meetings, or political meetings that are held? A. Yes, sir.

Mr. Riddle: I will object to the form of that question, Your Honor. It is a double question, saying fund or political meetings; entirely two different things.

The Court: All right. Ask him one or the other.

Q. (By Mr. Daly) Have you ever been to the Fund meeting? A. Yes, sir.

Q. Do you recall where those meetings were held, Mr. Deweese? A. One was held at the Chase, and one was held at the Electricians Hall.

Q. And were some candidates there at the time, at either of the meetings, that you recall? A. I think there were some candidates at the Electricians Hall.

Q. I see. Now, do you recall any of the candidates that were there? [1,258] A. No, sir, I don't.

Q. Now, do you know which candidates the Fund backs in the election? A. What years now?

Q. Well, any particular year? Could you tell us? A. Well, we backed Senator Long, and Senator Symington at one time.

Q. Do you recall any presidential candidates that the Fund backed? A. President Johnson.

Q. Have you ever worked as a steward collecting any money for the Fund? A. I have worked as a steward.

Q. Have you ever made collections for the Fund? A. I have received contributions.

Q. When you received these contributions, did you ever tell any of the men that were working under you, or who were making the contribution, that they had to make the contribution? A. No, sir.

Mr. Riddle: Object to leading.

The Court: Don't lead the witness.

Mr. Riddle: Ask the jury to disregard that answer.

The Court: The jury will disregard the answer.

Mr. Daly: You can have the witness.

[1,259] Mr. Riddle: I have nothing to ask this witness.

The Court: All right. Step down. Call your next witness.

(Witness excused.)

JAMES O'MARA,

being first duly sworn, testified in behalf of the defendants as follows:

Direct Examination.

By Mr. London:

Q. State your name, please. A. James O'Mara.

Q. Where do you live, Mr. O'Mara? A. In Florissant.

Q. What is your address out there? A. 2245 Oxford Drive.

Q. Are you married, sir? A. Yes.

Q. Family? A. Yes.

Q. Do you own your property out there, or buying it?
A. I am buying it.

Q. Are you a member of Pipefitters Local 562, Mr. O'Mara? A. Yes.

Q. Where are you employed now? [1,260] A. Labadie Powerhouse, for Bechtold.

Q. How long have you been a member of the Union?
A. About thirteen years.

Q. What is your position now? Are you a foreman, steward, journeyman, or just what position do you occupy? A. They call it an area foreman.

Q. And how long have you held that position? A. About a month.

Q. In your position, Mr. O'Mara, are you familiar with the Voluntary Fund? A. Yes.

Q. And do you make some collections for the Fund?
A. No, not right now.

Q. Have you, in the past? A. Yes.

Q. Are you familiar with the Voluntary Fund cards?
A. Yes.

Q. Have you had occasion in the past to give any of these cards to any of the men that work under you? A. Yes.

Q. Would you tell the Court what you tell these men at the time you give them these cards? A. I just tell them if they want to sign them, they can.

Q. Anything further than that? [1,261] A. No.

Q. Let me ask you, Mr. O'Mara, if you have occasion to attend any meetings of the Voluntary Fund? A. Yes.

Q. And where were these meetings held, sir? A. I think at the Teamsters hall. I think we had one at the—there is a hall behind the Teamsters. I think it is across from the Plumbers hall.

Q. Electricians hall? A. Yes.

Q. Do you know what transpired at these Voluntary Fund meetings A. What do you mean by that?

Q. Any candidates appear, or anything of that nature? A. I think we have had candidates introduce themselves at different meetings.

Q. Do you remember the names of any of the candidates that appeared at any of the Voluntary Fund meetings? A. The only one I can remember now was Governor Hearnese, before he was Governor.

Q. Are you familiar with the term of the Voluntary Fund? Do you sometimes call it a Political Fund, or is it always referred to as Voluntary Fund? A. Voluntary, I guess.

[1,262] Q. Do you recall a—are you familiar with a term, "Screening Committee"? A. Yes.

Q. What was the Screening Committee, sir? A. Well, it was set up to screen these different candidates, to see which ones we wanted to donate to.

Q. And did the Screening Committee report to the membership of the Voluntary Fund meetings? A. At least once, that I know of.

Q. Do you remember when that was, sir? A. No. No, sir.

Q. How was the Screening Committee selected, if you remember? A. No, I can't honestly say.

Q. Do you remember who was chairman of that Screening Committee? A. The only name that comes to my mind is Jim Hickey.

Mr. London: You may inquire.

Cross-Examination.

By Mr. Riddle:

Q. You have been an area foreman how long? A. On this job, one month.

Q. What are you making an hour now? A. Let's see. I guess it's \$6.73.

[1,263] Q. \$6.73? What does a regular foreman make?

A. A quarter less.

Q. That would be forty—— A. ——eight.

Q. Forty-eight. And a journeyman? A. \$5.98.

Q. You make about seventy-five cents more per hour? A. Exactly.

Q. Than a journeyman does? A. Right.

Q. That is \$3.20 more per day? A. I'd have to assume that.

Q. What are you paying into the Fund now per 8-hour day, or 40-hour week? A. Fifty cents a day.

Q. A journeyman who makes \$3.20 less than you, he pays the same amount you do? A. Right.

Q. To the Voluntary Fund? A. Yes.

Q. Was that decided upon that—— A. It was set up at the meeting.

Q. Meeting? A. (Indicating yes.)

[1,264] Q. Which meeting? A. I couldn't tell you which one.

Q. Were you there? A. Yes, sir.

Q. Who recommended you to be area foreman? A. When I got there, Bud Foley told me I'd be area foreman. He is my superintendent.

Q. Foley is the superintendent? A. Right.

Q. He is a member of 562? A. Yes, sir.

Q. He is superior to you in the Union hierarchy? A. What do you mean by that?

Q. Well, he's between you and the Union hall, I take it?
A. He's my boss; right.

Q. Sir, were you at the meeting in January of 1966 when your voluntary payments were reduced? A. Yes. I can't verify the date, but I've made them all. That is the only reason I can say I was there.

Q. Do you remember when they were reduced? A. I don't remember the particulars.

Q. Do you remember they were reduced from what figure to what figure? A. They went one time from a dollar a day, I think, to—[1,265] I don't know. I'm not sure.

Q. Do you remember that the assessments were raised the same day that your payments in this Fund were decreased? A. I couldn't honestly say this was all the same meeting or not. It's been so long.

Q. You don't remember that? A. (Indicating no.)

Q. Have you heard these payments into the Fund referred to as assessments? A. I can't truthfully say one way or the other. My dad has called them assessments for as long as I have known.

Q. Who? A. My dad.

Q. The payments into the Fund, he calls them assessments? A. We used the term assessments for years. He's a pipefitter too.

Q. Yes, sir. But you—now you don't call them assessments? A. No. I call them the Voluntary Fund.

Q. But your dad calls them assessments? A. I can't say that he does. I mean I have heard the term assessment, if that is what you mean.

Q. Well, you just testified that your dad always refers to them as assessments? [1,266] A. I didn't say the Voluntary Fund. I said he refers to assessments, the term.

Q. Does he refer to payments into this Voluntary Fund?

A. Oh, I can't say that.

Q. You are not saying that? A. No.

Q. Did anybody tell you to be careful not to use the word assessments in here when you are in the courtroom today? A. You mean like —

Q. The use of assessments to describe the payments into this Fund? A. Well, in the newspaper it seems like they are just making a big issue out of assessments. That is all.

Mr. Daly: Your Honor, may I ask that be stricken and the jury instructed to disregard it, and a mistrial be declared?

The Court: No. The answer was not responsive to the question, for one thing. The jury will disregard it.

Mr. Riddle: I don't have anything else to ask this witness.

The Court: All right.

Redirect Examination.

By Mr. London:

Q. Mr. O'Mara, you say your father is a fitter also? [1,267] A. Yes, sir.

Q. In years gone by, these older pipefitters refer to everything they pay as assessments? A. Right.

Q. Even today some of them still refer to this Voluntary Fund as assessments? A. That's right.

Q. In days gone by, everything was collected at one time, and they said whatever they paid was assessments; is that the way they referred to it? A. That's right. I don't think you can change terminology over night.

Q. Regardless of what you call it; the payments into the Voluntary Fund, is it an assessment, the fact that your father called it that? A. No.

Q. That doesn't make it an assessment, does it? A. No.
Mr. London: OK.

Recross-Examination.

By Mr. Riddle:

Q. What do you understand an assessment to be? A.
This is something set up by the Union.

Q. All right, sir. Are you telling this jury that the
[1,268] amount that you pay in here today is not set up
by the Union? A. For what?

Q. The amount that you pay into this Voluntary Fund
per day is not set up by the Union? Are you telling this
jury that? A. This isn't a Union organization.

Q. Is 562 a union? A. Yes.

Q. Is it headed by Mr. Ed Steska? A. President; yes.

Q. Yes. And Mr. Lawrence Callanan is one of the of-
ficials of that union? A. Right.

Q. And Mr. John Lawler? A. Right.

Q. And Mr. George Seaton? A. Right.

Q. And all the meetings that you have are chaired by
either Mr. Steska, Mr. Callanan, Mr. Lawler or Mr. Sea-
ton? A. That's right.

Q. And all of the people who attend these meetings
that you refer to as the Fund meeting are members of
Local 562? A. To my knowledge.

Q. Yes, sir. And those meetings are held at the Union
hall, or at another hall, usually, and frequently used for a
[1,269] meeting place by the Union, aren't they? A. Yes,
they are the same.

Q. Yes, sir. And the payments are made to the Union
hall, are they not? Your cash payments that you pay in
each week? A. They have offices in the same building
yes, sir.

Q. And the offices there are the offices that are occupied by the officers and the other officials of the Union? A. What was that again?

Q. And I say in those buildings—these offices are occupied by the Union, and all of its staff? A. Yes, they are all in one building.

Q. Yes, sir. A. Yes, sir. I am sorry.

Q. Sir, I ask you now to look at Government's exhibit, the one on the left, and notice the rate of payment into the Voluntary Fund from January 1, 1963, to January 1, 1966, and ask you if that doesn't represent a consistent payment of \$1.00 for each 8 hours worked each day? A. Through '66; yes.

Q. Yes, sir. And from January 1 of '66, payments were reduced 50 cents? A. Yes.

Q. Down to 50 cents for an 8-hour day? A. Right.

[1,270] Q. And at the same time, your assessments that you pay into the Union were increased to \$1.50 a day from January 1, 1966? A. Yes.

Q. The assessments that you pay in are based upon your gross wages or salary, aren't they? A. Yes, sir.

Q. And what are the payments into the Voluntary Fund based upon? A. On an 8-hour day.

Q. On an 8-hour day. Now, sir, you tell this Court and jury the difference between those assessments and those assessments. A. Well, this is voluntary.

Q. Yes, sir. It is voluntary. But tell the Court and jury the difference between those assessments and these. Forget the word voluntary. Use your own words, and tell them. A. I don't see what you mean.

Q. Sir, do you see a similarity between the payments under this program and the payments under this program? A. I must be stupid, but no.

Q. You don't see the similarity. I have nothing else to ask him.

[1,271] Mr. Randall: I have a few questions?

The Court: All right.

Redirect Examination.

By Mr. Randall:

Q. Sir, the dues and assessments, to whom are they paid? A. To John Burke.

Q. To whom are the dues and assessments paid? What organization? A. To Local 562.

Q. And the Voluntary contributions are paid to what organization? A. To the Voluntary. I guess Political Fund.

Q. Fund. Now, sir, I'll ask you this question: Were or were not separate meetings held for the Local and for the Fund? A. Sure; yes, sir.

Q. Which was it? Separate or not separate? A. They were separate.

Q. And the determination as to how much to pay for dues and assessments were made at a meeting of, was it the Local, or was it the Fund that determinations were made as to what dues and assessments were to be paid? A. Dues and assessments are always handled at a Union meeting.

[1,272] Q. At a Union meeting. And determination as to how much contributions were to be made into the Fund, what meeting was that determination made at? A. At the Voluntary Fund.

Mr. Randall: That's all.

The Court: Anything else, Mr. Riddle?

Recross Examination.

By Mr. Riddle:

Q. Was this meeting held all at the same night? These two meetings that you are referring to? A. I can't honestly say that. You mean the particular one where it was changed.

Q. Yes. A. I don't remember if that was a Sunday meeting or—We have had some—

Q. Sir, you testified that these were distinct and separate meetings? A. We have held separate meetings on the same night; yes.

Q. In the same place? In the same room? A. Right.

Q. Under the same roof? A. Right.

Q. How could you tell when you were going from one meeting into the next? [1,273] A. Well, you adjourned one and you start another one.

Q. Is that the only thing that changed? All of the people were the same? A. I would imagine.

Mr. Riddle: Yes. OK. That's all.

The Court: Anything else? Step down.

(Witness excused.)

HERBERT KRAHMAN,

being first duly sworn, testified in behalf of the defendants as follows:

Direct Examination

By Mr. Randall:

Q. Mr. Krahman, would you state your full name, please? A. Herbert Phillip Krahman.

Q. Where do you live? A. 10539 St. Henry Lane, St. Ann.

Q. Mr. Krahman, are you a member of Pipefitters Local 562? A. Yes, sir.

Q. And how long have you been a member? A. I became a member of Local 562 in September, 1937.

Q. Now, Mr. Krahman, are you familiar with the Voluntary Political Fund? A. Yes, sir.

[1,274] The Court: Mr. Krahman, would you get about four or five inches further from that microphone, please!

The Witness: All right.

Q. (By Mr. Randall) Have you ever attended any meetings of the Political Fund? A. Yes, sir.

Q. Do you also attend meetings of the Local? A. Yes, sir.

Q. Do you attend most of the meetings? A. I attend as many as I can possibly attend.

Q. Now, sir, were you present at a meeting of the Fund when a determination was made to change the amount of contributions of the people who were contributing to the Fund? A. If I recall correctly, we were contributing, I think, a dollar a day, and it was voted to drop down to fifty cents a day, if my memory serves me correctly.

Q. All right, sir. Now, did you attend a meeting of the Local around or near the same period of time, at which time the assessments were changed, of the Union itself? A. Yes, sir. The assessments were changed, raised up to three and three-quarters per cent of our gross earnings.

Q. Were those different meetings? The two meetings we have just spoken about? A. I'm almost sure that they were two separate meetings. [1,275] They might have been the same date, but they were—In other words, the Union meeting was the Union meeting, and the Political Fund was the Political Fund, if my memory serves me correctly.

Q. All right, sir. Now, Mr. Krahman, in addition to being a pipefitter, do you hold an elective position in St. Ann's? A. I did. I held an elective position from April, 1958, up until April of 1968, when I retired from the Board of Aldermen.

Q. You were a member of the Board of Aldermen? A. Yes, sir.

Q. Now, sir, did you sign one of the Contribution Agreements to the Fund? A. Yes, sir.

Q. And did you read the agreement at the time? A. Yes, sir.

Q. Did you understand it? A. I think so.

Q. Now, Mr. Krahman, I will hand you what's been marked Defendants' Exhibit A, and I will ask you if that is the type of card that you signed? A. I would say this is the original card.

Q. It is not the one that has your signature on it, but [1,276] that is the kind you signed? A. That is the original one for a dollar.

Q. And, sir, would you read the last paragraph of the card? A. (Reading) "I understand that contributions are voluntary on my part, and that I may revoke this agreement by a written notice to the effect mailed to the Fund or to persons in charge thereof.

"I also understand that my contributions are no part of the dues or financial obligations of local Union No. 562, and that the Union has nothing whatsoever to do with the Fund."

Q. Thank you. And you understood then at that time that the Union had nothing to do with the Fund? A. That's correct.

Q. Now, Mr. Krahman, did you ever collect for the Fund? Collect contributions for the Fund? A. Yes, sir. I collected five or possibly six weeks when I was assigned

to a very small job in north St. Louis. I was asked to be general foreman and steward. I had five men and myself on the job.

Q. Now, what procedure did you use in making those collections, sir? A. All the men on the job with me were 562 men, with the exception of one student. On Monday morning, I usually went [1,277] in the trailer about five or ten minutes to 8:00. Pardon me. Occasionally we might get an hour or two a night overtime. So on Monday I would tabulate how many hours we put in, and if my contributions, for example, was for forty hours, I laid down \$2.50 on my desk. As the men came in, they saw the amount that I laid down in contribution. In fact, I think most of the time their conversation kept right on going. If they had a five dollar bill, they took whatever change was there. If we worked overtime, I added that. In other words, for every four hours overtime, I added fifty cents a day contribution to the Political Fund.

Q. And they left theirs on the table? A. Right.

Q. Now, sir, at these Fund meetings that you attended, were there ever any candidates present? A. I think at one time there were some candidates, but I wouldn't say yes, and I wouldn't say no, because I couldn't say positively.

Q. Were there any—Can you recall discussions of candidates, or speeches? A. I think that many times the qualification of various candidates was discussed.

Q. Were you present at a meeting of the Fund two or three months ago where a vote was taken? [1,278] A. Yes, sir.

Q. And did you remain for the count of that vote? A. No. I turned in my ballot, and I asked the next day, I think, on the job, if I remember rightly, and it was overwhelmingly in favor of the Fund.

Q. And, sir, did the people who attended that Fund meeting, did they fill out an attendance card? A. Yes, sir; white card.

Q. Then how was the vote taken after that? A. I think you voted either you were for or against the Political Fund.

Q. Did you have a ballot? A. They had a box, and they put the ballots in.

Q. All right. Now, sir, did anyone ever say to you, or state to you, anything as to whether or not it was necessary to contribute to this Fund? A. No, sir.

Q. Did you ever state any such thing to anyone else? A. No, sir.

Mr. Randall: You may inquire.

Cross-Examination.

By Mr. Riddle:

Q. Sir, when the Union's assessments were raised to three and three-quarters—do you remember that? [1,279] A. Yes.

Q. Were you at that meeting? A. Yes, sir.

Q. Was that raised by a vote? A. I think it was a recommendation of the Executive Board, and the minutes of the Executive Board were approved.

Q. By a vote? A. By a vote.

Q. Of the membership? A. Right. I mean that is, to the best of my recollection.

Q. So the assessment was raised by action of the entire membership? A. I think it was, with the recommendation—in other words, it came out in the minutes, if my memory is correct, and the minutes of the Executive Board are read to the members, and then, what would you call, the business meeting records were approved by the membership.

Q. In other words, their action was ratified? A. Right.

Q. In the case of your increase to three and three-quarters, the Executive Board recommended to the membership that they be raised that much up to three and three-quarters per cent of the gross? A. To the best of my knowledge, I say that is to the [1,280] best of my knowledge. I don't remember every detail on it.

Q. Well, this was voted upon by the membership, wasn't it? A. Yes, sir, to my knowledge.

Q. And the decrease in the payments into the Fund was voted on by the membership? A. Yes, sir.

Q. That was decreased the same way that the assessments were increased? By the same body of people? A. Yeah, I think so.

Q. Yes, sir. Do you recall who presided at this meeting where the assessment was raised and the Fund payments were decreased? A. I don't remember, the business manager, or the assistant business manager, or the president, but I am pretty sure it would be one of the three. Now, which one it was, I couldn't answer.

Q. Well, did the same person preside over both meetings? A. It's possible.

Q. The president is Mr. Steska? A. Correct.

Q. You said he was one of them that could have, or you said that possibly two others may have. Who were the others, by name? A. Mr. Lawrence Callanan and Mr. John "Doc" Lawler.

[1,281] Q. Right. Now, it is your testimony to the jury that one of those three men presided at both meetings? A. To my knowledge, or to the best of my knowledge.

Q. Can the same man preside at both meetings? A. That, again, I wouldn't say for sure.

Q. Sir, do you recall signing another card called a Gift Fund? A. Yes, sir.

Mr. Daly: Your Honor, I am going to make an objection to this, and also request—

The Court: Let the record show that he objected, and it was overruled.

Q. (By Mr. Riddle) Where was that meeting, or where did you sign that card? A. It was voted on at the special meeting, and I think I signed that card a short time later on the job, if my memory is correct.

Q. You say this was voted on at a special meeting? And where was it held? A. It was discussed thoroughly at a special meeting yes, sir.

Q. Special meeting of the Union? A. Of the Fund.

Q. Oh, this is a Fund meeting? [1,282] A. To my knowledge, it was.

Q. Was there a notice sent out on it? A. All our special meetings have written notices.

Q. All right. Who presided at this meeting? A. If it is the meeting I recall, I think John "Doc" Lawler presided at that meeting.

Q. Did you understand that was a Fund meeting, or a Union meeting? It is kind of hard to tell them apart, isn't it? A. I distinctly remember two meetings on a Sunday, and you try to bring down, you know, to pinpoint in my own mind, say it is definitely this or that, I find it rather difficult. I am trying to be very frank and very honest about it.

Q. Yes, sir. Well, you think that Mr. Lawler presided at the Gift Fund meeting though? This is your recollection? A. I think so.

Q. Was that taken to a vote? A. Yes, sir.

Q. Do you know how much money was donated into this Gift Fund?

Mr. London: May we approach the bench a moment, Your Honor.

The Court: All right.

(Thereupon the following colloquy ensued among the Court and counsel, at the bench, out of the hearing of the jury:)

[1,283] Mr. London: At this time, if the Court please, we would like to renew all of the objections that have heretofore been made to the testimony concerning the Callanan Gift Fund, and add that the amount of money donated would certainly be totally irrelevant and immaterial, and highly prejudicial to the defendants.

The Court: I don't see how the amount of money comes within the purview of the direct examination. Now, I can see how whether or not he contributed to the Gift Fund, whether he signed a card, but I don't think what the amount of money was that was contributed to the Gift Fund is material. If you want to tell me, I will listen.

Mr. Riddle: Well, I think it is interwoven with the proposition of whether or not there were separate meetings, or whether or not this was all the action and conduct of the Union.

The Court: Well, I can see how some of the questions that you have propounded in relation to the Gift Fund bear that out, but the amount—so I will sustain the objection.

Mr. London: We will ask further relief, that the question be stricken, the jury instructed to disregard it, and that a mistrial be declared.

The Court: Request for a mistrial will be denied.

(Thereupon the trial was resumed before the jury as follows:)

[1,284] The Court: The jury will disregard the last question.

Q. (By Mr. Riddle) Sir, in connection with the signing of this Gift Fund—

(Thereupon Government's Exhibit No. 215 was marked by the reporter for the purpose of identification.)

Q. —and I understand this is not your card—it should be a card like you signed—Can you tell by looking at it, and tell the Court and jury if that is the same card that you signed, or one just like that? A. Yes, sir.

Q. Did you read it? Did you read that card over before you signed it? A. Yes, sir.

Q. Did you understand what it said? A. Yes, sir.

Q. Would you read it over for the jury now, please, and the Court?

Mr. Daly: We object to this. I think this is way beyond the scope of the direct examination of this witness, and certainly does not tend to prove or disprove any of the issues involved as to the Voluntary Fund.

The Court: I think that it is beyond the scope of the direct examination. If you will tell me what the purpose of it is, I think—Has this card been read before?

[1,285] Mr. Riddle: It has not, as far as I can recall.

The Court: Well, it is in evidence, isn't it?

Mr. Riddle: It is in evidence, but our position, Your Honor, is that this witness was asked about the other card.

Mr. London: May we approach the bench?

Mr. Riddle: This witness was asked about the other card that he signed, asking if he understood it, and this is the similar type of card that he says he signed, and read the other one, and I am asking him, I submit, it is properly within the scope of the direct examination.

The Court: He was asked if he signed the other card and if he read it, but the point that I am making, Mr. Riddle, is that a card with the very same wording on it is in evidence, and the jury has seen it.

Mr. Riddle: All right. Well, then in view of that, we will withdraw that question.

I believe I have nothing further to inquire of this witness.

Mr. Randall: No questions.

The Court: Call your next witness.

(Witness excused.)

Mr. Riddle: If it please the Court, just a second.
(Mr. Riddle conferred with the clerk.)

[1,286]

JAMES J. RYAN,

being first duly sworn, testified in behalf of the defendants as follows:

Direct Examination.

By Mr. London:

Q. State your name, please. A. James J. Ryan.

Q. Where do you live, Mr. Ryan? A. 138 Vlasie Drive, Ballwin.

Q. Mr. Ryan, are you a member of Pipefitters Local 562? A. Yes, sir.

Q. How long have you been a member? A. Since February, 1942.

Q. Where are you working now, sir? A. For the Bechtold Corporation, at the Labadie Power Plant.

Q. Do you hold any position? Journeyman? Foreman? A. Foreman.

Q. Mr. Ryan, are you familiar with the Voluntary Fund? A. Yes, sir.

Q. Do you contribute to the Voluntary Fund? A. Yes, sir.

Q. Have you signed a card for the Voluntary Fund, sir? A. Yes, sir.

Q. Have you had occasion, sir, to hand out cards to any [1,287] new men on your jobs for the Voluntary Fund? A. Yes, sir.

Q. What do you tell the men when you give them a card, sir? A. Just give them the cards for the Voluntary Fund, and if they want to sign it, why they sign it, along with the withholding tax forms, or any other forms that we have to fill out, or that we do fill out, I should say.

Q. Have you ever attended any union meetings of Local 562? A. Yes, sir.

Q. Have you ever attended any Voluntary Fund meetings? A. Yes, sir.

Q. They are separate meetings, are they not, sir? A. Yes.

Q. Were you at a meeting some while ago, not too long ago, where a vote was taken whether or not to continue the Voluntary Fund? A. Yes, sir..

Q. Do you know what the outcome of the vote was, sir? A. It was to continue it.

Q. Do you know what the number, the number of ayes and the number of nays were? A. It was a written ballot.

Q. Do you know what the final count was? [1,288] A. I don't remember, but it was quite a majority in favor of continuing it.

Q. Was this a vote taken by secret ballot, sir? A. Yes, sir.

Mr. London: You may inquire.

Cross-Examination.

By Mr. Riddle:

Q. Sir, do I understand your practice, to be when a new job starts, or new people come on the job that is under your supervision, that one of the first things you do is take them the withholding forms? A. Yes, sir.

Q. And the vote card form? A. Well, that's—I have all these cards along with the papers to hire new employees.

Q. All right. Everything that is necessary for a new employee to sign, showing all of his withholdings and deductions, you take it on the job and make it available for them, or somebody underneath you, to get it signed?

A. I have, on occasion, done this. I don't do this at Labadie. I mean—

Q. Who does it at Labadie? A. Well, they have a time-keeper who takes care of these withholding tax forms.

[1,289] Q. When a new man comes on the job, the first thing he sees from his union is the withholding tax form, this Voluntary Card form? A. No, sir.

Q. What is the first thing that he sees from his Union?

A. Well, if you are talking about Labadie now, sir—

Q. Well, the one that you were talking about when you answered Mr.— A. Well, I was with a company for several years where I was the foreman. It was a company who did smaller type jobs, and I was the foreman, and acted as the steward on these jobs, and when a man would come to work on the job, why we would have to sign him up, and find out who he was, what his deductions were, and if he was going to contribute to the Voluntary Fund, so on and so forth.

Q. Sir, how many people do you think that you have oriented in that fashion, just the way you have described it to the jury? That is, a new man coming on the job, and you, his foreman, the first days there, come out and give these various forms to fill out. How many men do

you think you have gone through that process with?
A. Well, I was foreman of that company for nineteen years, and I was in a supervisory capacity all that time, and I couldn't even guess at how many people I have done it; quite a [1,290] few.

Q. Did any employee, under those circumstances, ever refuse to sign that card, along with the other cards that you gave out? A. No, sir.

Q. Not a single one? A. No, sir.

Q. Out of hundred and hundreds? A. I wouldn't say it was hundreds.

Q. Well, over a hundred? A. I'll say a couple hundred, maybe, over a period of years; yes.

Q. Anybody ever ask you any questions about what this card was for? A. I think they all realized what it was for, as well as I did.

Q. In fact, it is well known in the trade among pipe-fitters all over the country, isn't it, that you work on this job, on a job for 562, you pay this amount of money?
A. Well, sir, I don't know what is known around the country. As far as what is paid, this Voluntary Fund, is voluntary, and I mean if people don't pay it, if they don't want to they don't have to pay it.

Q. Do you remember when the word "voluntary" was hung [1,291] onto it? A. Not precisely; no, sir.

Q. It was about January 1 of 19 and 63, wasn't it?
A. Probably so.

Q. Before that time, what were these payments called?
A. I could be wrong about that. It seems like it was the Political Fund; something like that.

Q. Were they called assessments before that term "voluntary" came? A. No, sir.

Q. Never called assessments? A. Not to my knowledge.

Q. You never called them assessments? A. No, sir.

Mr. Riddle: I have nothing to ask this witness.

The Court: Anything else?

Mr. Randall: Nothing.

The Court: You may be excused.

(Witness excused.)

The Court: Have you got another short one?

Mr. Daly: Yes, sir.

WILLIAM DEISNER,

being first duly sworn, testified in behalf of the defendants as follows:

[1,292]

Direct Examination.

By Mr. Daly:

Q. Would you state your name, please? A. William Deisner.

Q. Where do you reside, Mr. Deisner? A. 5617 Jennings Road.

Q. And where is that, sir? A. Jennings.

Q. And are you employed at this time? A. Yes, I am.

Q. And by whom are you employed? A. Bechtold Company.

Q. And where are you employed for them? A. Labadie, Missouri.

Q. How long have you been with the Bechtold Company? A. Since July 15th.

Q. Of this year? A. Yes, sir.

Q. For whom were you employed prior to that? A. Doherty Company.

Q. Doherty Company? What business does the Doherty Company have? A. Pipe.

Q. And is the Bechtold Company also in the same business? [1,293] A. Yes, sir. General contractors, I believe they are more.

Q. What is your trade or occupation? A. Pipefitter.

Q. And are you a member of Local 562? A. I am.

Q. How long, Mr. Deisner, have you been a member of Local 562? A. Twenty years, roughly.

Q. Now, what is your job for Bechtold? A. Pipefitter foreman.

Q. Are you a member of the Voluntary Fund? A. Yes, I am.

Q. And do you make contributions to the Voluntary Fund? A. Yes, I do.

Q. And do you make these contributions, sir, voluntarily? A. Yes, sir.

Q. And, now, do you collect for the Fund at this time? A. Yes, sir.

Q. And how many men are working under you? A. Six.

Q. And are you collecting from those six men? A. I collect from them, and then give it to the job steward.

[1,294] Q. He takes them into the Fund hall? A. Yes, sir.

Q. Has anyone ever told you that you had to make these contributions? A. No, sir.

Q. Have you ever told any of the men working under you in the nineteen years, that they had to make contributions to this Fund? A. No, sir.

Mr. Daly: Your witness.

Cross-Examination.

By Mr. Riddle:

Q. What is your name, again? A. William Deisner.

Q. How do you spell the last name? A. D-e-i-s-n-e-r.

Q. Are many people working under you that don't make these contributions? A. No, sir.

Q. They all pay according to the scale? A. Yes, sir.

Q. And the scale now is what? A. For Pipefitter foremen, \$6.48.

Q. I am talking about paying in the Fund. What is the [1,295] scale for that? A. Fifty cents per eight hours worked.

Q. Fifty cents per eight hours worked? A. Yes, sir.

Q. It used to be a dollar for eight hours worked? A. I believe it was; yes, sir.

Q. Do you have a single man now, or any time, whose contributions would be a penny more than the established or fixed contribution rate? A. Not that I know of; no, sir.

Q. Have you ever heard of anybody paying more than the fixed or established rate? A. No, sir. Well, do you mean out of town, the difference there, or what?

Q. Well, I am talking about, well, there is a rate established for out-of-townners too, isn't there? A. Yes, sir.

Q. What is that rate? A. I believe it figures out about twenty-five cents per hour.

Q. About twenty-five cents per hour? A. Worked; yes, sir.

Q. Who established that rate for out-of-townners? A. I guess the Voluntary Fund did. I don't know.

[1,296] Q. The out-of-townners didn't, did they? A. I don't guess so.

Q. How do these out-of-townners react to that rate of \$2.00? A. I have never heard any complaints from them.

Q. Do you line them up when they come on the job, with the cards, and get them to sign them? Have you ever done that? A. No, sir.

Q. You have collected from them? A. Collected from them if they work for me and my gang; yes, sir.

Q. Do you go tell them that their rate is \$2.00 a day? A. No. I imagine they are told that when they come on the job. I don't tell them that.

Q. In any event, they know what the rate is before you ever get to them? A. Yes.

Q. The only thing you have to do is say, "Just give me your payment"? A. Yes, sir.

Q. You say they voluntarily give it to you? A. They never have beefed to me about it.

Q. You wouldn't be the one that they'd beef to, I don't suppose? [1,297] A. Well, I don't know.

Q. Do you ever notice any of them going down and beefing to the hall? A. No, sir, I don't.

Mr. Riddle: OK. That's all.

The Court: Anything else?

Mr. Daly: No redirect, Your Honor.

The Court: You may be excused.

Gentlemen of the Jury, I am going to recess until 9:15 tomorrow morning. I have got a couple matters to attend to before we bring you in, so if you will get here at 9:15, I will try to bring you in at 9:15.

Bear in mind the admonition I have given you heretofore. You are not to read any newspapers, or look at television, or listen to the radio at times when news are on.

You are not to talk to anybody about the case, or permit anyone to talk to you about it, form no conclusion

about the case until you have heard all of the evidence and the instructions of the Court and argument of counsel. 9:15 tomorrow morning.

(Thereupon at 4:50 p. m., on Thursday, September 12, 1968, court was adjourned until 9:15 a.m., Friday morning.)

[1,298] Friday, September 13, 1968.

Morning Session.

(Before court convened, the following proceedings were had out of the hearing of the jury:)

(Thereupon defendants' Motion Exhibits Nos. 13, 14 and 15 were marked by the reporter for the purpose of identification.)

Mr. London: If the Court please, yesterday morning before the commencement of proceedings, I indicated to the Court that I had some additional exhibits that I wanted to offer in line with our motion regarding publicity, and the Court said to do it at a later time, so, at this time, I would like to renew all of the motions that we have previously made with regard to publicity, and offer into evidence defendants' Motion Exhibits 13 and 14, being articles appearing in the St. Louis Globe-Democrat of Thursday, September 12th, 1968, and defendants' Motion Exhibit 15, being articles appearing in the St. Louis Globe-Democrat of Friday, September 13, 1968.

The Court: Was there more than one article in the Globe?

Mr. London: There are two articles in each edition, Your Honor, one relating to this trial, and one relating to the continued investigation of the Gateway Ammunition Plant.

The Court: Well, as far as it applies to the Gateway Ammunition, I don't think there is any connection [1,299] between the two.

Mr. London: I would like for the record, and the Court's information, in the article of yesterday, being Exhibit 14, one of the paragraphs of the article reads,

"The grand jury was convened to probe organized crime and along with gambling indictment against three Steamfitter Union leaders now on trial."

That is an article dealing with the Gateway Ammunition situation.

The Court: When the jury comes back, I will just ask them if they read anything. I will reserve a ruling until such time.

Mr. London: May these be——

The Court: They will be received. Mr. Bailiff, will you bring the jury back, please?

(Whereupon defendants' Motion Exhibits Nos. 13, 14 and 15 were received in evidence.)

(Thereupon the jury returned to the courtroom, and the further following proceedings were had:)

The Court: Members of the Jury, I want to ask you one question. If any of you have an answer to make, just raise your hand.

Since at least the 12th—that was Wednesday—there have been articles appearing in the newspapers on the evening of—since the 11th, Wednesday evening, Thursday evening, and [1,300] Thursday morning and this morning, articles appeared in the newspapers concerning this trial.

Has anybody read any of those articles? If so, raise their right hand.

Let the record show that none of the jurors have raised their right hand.

Your motion will be denied. Call your next witness, please.

GEORGE BRITTON,

being first duly sworn, testified in behalf of the defendants as follows:

Direct Examination.

By Mr. Daly:

Q. Would you state your name, please? A. George Britton.

Q. And where do you reside, Mr. Britton? A. 352 South Margaret, Ferguson.

Q. With whom do you reside? A. My wife.

Q. Do you live there with your family, your wife? A. Yes, sir.

Q. What is your occupation? A. Pipefitter.

Q. And are you presently employed? A. Yes, sir.

[1,301] Q. By whom are you employed? A. Stern-Rogers, at Weldon Springs, Missouri.

Q. How long have you been employed by Stern-Rogers? A. Since February; the first of February.

Q. 1968? A. Yes, sir.

Q. And for whom were you employed prior to that? A. Mason-Rust.

Q. Where was that employment? A. Scullin Steel.

Q. Now, are you a member of Pipefitters Local 562? A. Yes, sir, I am.

Q. How long have you been a member? A. Since '42.

Q. That would be about twenty-six years? A. About that; yes, sir.

Q. Are you familiar, sir, with the Voluntary Fund? A. Yes, sir.

Q. Did you sign a Voluntary Contribution Card? A. I most certainly did, sir.

Q. And do you contribute to this Fund? A. Yes, sir, I do.

Q. And is your contribution voluntary? A. Yes, sir. A hundred per cent.

[1,302] Q. Has anyone ever told you you had to contribute? A. No, sir. I was told I did not have to.

Mr. Daly: I have no further questions.

Cross-Examination.

By Mr. Riddle:

Mr. Riddle: Excuse me just a second, Your Honor.

Q. (By Mr. Riddle) You said you are a member of the Fund? A. A member? I am a member of Pipefitters Local 562. I give to the Fund; yes, sir.

Q. Well, are you a member of the Fund? Did you ever hear that expression used? A. No, sir, I don't believe I ever have.

Q. The only thing that you know that you are a member of is Local 562? A. 562; yes, sir.

Q. And you have a card showing you are a member of 562? A. I have a Union book showing that; yes, sir.

Q. If you have never heard of the Fund, I assume from that you have never attended any meetings of the Fund? A. Well, sir, the Fund is something now I don't understand what you are talking about, the Fund. The Political Fund?

Q. Yes. [1,303] A. Yes, sir.

Q. Are you a member of that? A. I don't quite understand the meaning of member on that. I voluntarily give

to this Fund, yes, and I have signed a card, but now being sworn in as a member, or anything, that never happened.

Q. Never was mentioned. You never heard of the membership in the Fund? You never heard of that? A. No, sir. Truthfully, I have not.

Q. Now, sir, I take it then that you never attended any meetings of the Political Fund? A. Well, sir, I worked out of town quite a bit now, and some of these meetings I could not get in to; that is true.

Q. But you never even heard of any meetings of this so-called Political Fund? A. Truthfully, no, sir.

Q. Do you get notice of all meetings that comes from the Union hall? A. On Union meetings, yes, sir.

Mr. Daly: Your Honor, may we approach the bench?

(Thereupon a colloquy ensued among the Court and counsel, at the bench, out of the hearing of the jury and the reporter.)

The Court: If there are any witnesses in the [1,304] courtroom, I wish they'd go out the back door and walk around either side. There is a witness room. What is the number of that room? 319.

(A witness left the courtroom.)

Q. (By Mr. Riddle) Sir, do you know what happened to the money that you paid into this Political Fund? A. Do I know what happened, sir? No, sir, truthfully, I do not know what happened. I know what my thoughts were was going to happen to the money. It would be strictly for political funds and for candidates that we thought would benefit our Local, and that was my impression of it.

Q. Well, sir, was it your impression that this money was being paid in for your Local's use for political purposes? A. Not for my Local's use.

Mr. London: I object to it as calling for a conclusion; it is not binding.

The Court: He's already answered the question.

Q. (By Mr. Riddle) Sir, did you understand that all the money that you paid in, and the others, would be used for political purposes, and political purposes only? A. This is true; yes, sir.

Q. What about the money that you paid in for a time in the Callanan Fund?

Mr. Daly: May we object to that, and ask it be [1,305] stricken, and the jury instructed to disregard it?

The Court: It will be overruled.

Q. (By Mr. Riddle) What was your understanding of the money that was paid into the Callanan Gift Fund?

Mr. Daly: I object to that.

The Court: Well, it is the same question. It will be the same ruling.

The Witness: Well, the money that was paid into the Callanan Gift Fund was for Mr. Callanan to do with what he seen fit, as far as I was concerned.

Q. You paid into that also, did you? A. Yes, sir.

Q. You did vote for that at a meeting?

Mr. Daly: Your Honor, may the record show that I object to each and every question concerning the Gift Fund?

The Court: The record will show the objection will be overruled.

Q. (By Mr. Riddle) Did you vote for that Callanan Gift Fund? A. Yes, sir.

Q. Was that at a Union meeting? A. No, sir.

Q. What kind of a meeting was that? A. That was after—I think that was taken up after [1,306] the regular Union meeting, sir.

Q. At the Union hall? A. Not at the Union hall; no, sir.

Q. But at a place where the Union had a regular meeting? A. Yes, sir.

Q. And it was taken up after the other meeting, you say? A. That was taken up after the regular Union meeting was adjourned, I believe.

Q. Was it at the same building? A. Yes, sir.

Q. Same people preside? A. No, sir, I don't think the same people presided. I think—well, this is a hard question for me to answer, sir.

Q. Well you know what I mean by presiding, do you? A. I most certainly do.

Q. Well, you say it is a hard question for you to answer. Is it because you don't remember? A. Well, in a way, but I do remember that some of the local members got up, and there was a short recess, and I don't remember if they all went back up on the stand or not, sir.

Q. Did you see any members of the Local leave between the two meetings? A. Well, I was busy myself, sir, heading for the restroom, and everything else, to see what anybody else was [1,307] doing.

Q. Now, did you attend any meeting when it was decided to cut off that Callanan Gift Fund and resume the Political Fund payments? A. Yes, sir, I was at that meeting.

Q. Where was that held? A. Where all our meetings are held. At the Electricians hall.

Q. That is where all your Union meetings are held? A. Well, as of late.

Mr. Riddle: I have nothing further to ask this witness.

The Court: All right. Any redirect?

Mr. Daly: No, Your Honor.

The Court: All right. Step down. Call your next witness.

(Witness excused.)

CLARENCE B. GILLEY,

being first duly sworn, testified in behalf of the defendants as follows:

Direct Examination.

By Mr. London:

Q. State your name, sir. A. Clarence B. Gilley.

[1,308] Q. Where do you live, Mr. Gilley? A. Ballwin.

Q. Your address, sir? A. 220 Pleasant Grove.

Q. Do you own your property out there, sir? A. Yes, sir.

Q. Married man? A. Yes, sir.

Q. Mr. Gilley, are you a member of Pipefitters Local 562? A. I am.

Q. And how long have you been a member, sir? A. About since 1942.

Q. Where are you working now, Mr. Gilley? A. Ralston Purina, on Chouteau Avenue.

Q. How long have you been on that job? A. About four months, I believe; something like that.

Q. Mr. Gilley, are you familiar with the Voluntary Fund? A. Yes, sir.

Q. Did you sign a Voluntary Contribution Card? A. Yes.

Q. And do you contribute into the Voluntary Fund? A. Yes, sir.

Q. How do you make your contributions? Somebody pick them up for you, or do you take them in to the Voluntary Fund office? [1,309] A. I pay them on the job.

Q. Right on the job? A. Yes, sir.

Q. Do you pay to the Fund regularly? A. Yes, sir.

Q. Have you ever attended any meetings of the Voluntary Fund? A. Yes.

Q. These meetings are separate and distinct from the Union meetings? A. Yes, sir.

Mr. Riddle: We will object to that as being leading and suggestive, Your Honor.

The Court: Be sustained. Don't lead the witness.

Q. (By Mr. Riddle) How many of these meetings have you been to, Mr. Gilley? A. Oh, I don't recollect; a few.

Q. Do you consider the contributions to the Fund as dues?

Mr. Riddle: I object to that as leading and suggestive, Your Honor.

The Court: Well, I think it is certainly leading and suggestive. I'll sustain it on that ground. Go ahead, Mr. London.

Q. (By Mr. London) Are you a foreman, Mr. Gilley? [1,310] A. No, sir.

Q. Do you hold any position of any type, other than journeyman, sir? A. No, sir.

Q. You are a Democrat, Mr. Gilley? A. Yes.

Mr. London: You may inquire.

Cross-Examination.

By Mr. Riddle:

Q. Sir, you say you attended a few of these meetings of the Fund? A. Yes.

Q. Did you listen to what was said, and what explanations were made, and how it was to be handled? A. Yes.

Q. What it was being used for? A. Yes, sir.

Q. Sir, did you hear any explanation being made that this money was being held separate and aside from the regular Union fund money? A. Yes; separately.

Q. Sir, were you told why it was being held separately? A. I don't recollect that, why it was. I understood it as Political Fund contribution separate from the Local.

[1,311] Q. Well, sir, did you understand, or were you told that these funds were being maintained in a separate bank account? A. Separately; yes.

Q. Then were you told why it was separate and apart from any regular Union funds? A. No, I don't. I recollect that it couldn't be mixed up with the Local at all.

Q. Yes, sir. You said it couldn't be mixed up with the Local? A. No. It had to be separate.

Q. All these payments that you have made over a period of several years— A. Yes. Since it's been in effect.

Q. —you have made those payments to Union stewards? A. Yes.

Q. Out on the job? A. On the job; yes, sir.

Q. Have you ever gotten behind? A. No, I've never.

Q. Always current? A. Always current.

Q. Pay every Monday? A. Usually. Yes, sir, on Monday morning.

Q. How much do you pay every Monday morning now? [1,312] A. \$2.50. 50 cents a day for five days.

Q. How do you know that that's the amount that you ought to contribute? A. Well, that's—we signed the pledge card for this amount, and we pledged that much.

Q. \$2.50 each week? A. 50 cents a day. If it is four days, it is only \$2.00. I mean 50 cents a day.

Q. Sir, do you remember when it was a dollar a day, \$5.00 a week? A. I remember; yes, sir.

Q. I guess you never did pay any more than that, or any less? A. I never paid any more than five; a dollar a day.

Q. Never paid any less than that? A. Now, yes. 50 cents a day.

Q. You never paid anything less than the going rate? A. No, no, no.

Q. I guess you are current on your regular dues and assessments also? A. Yes, sir.

Q. Sir, were you ever at a Fund meeting when any discussion was made of using proceeds or money in this Fund for the purpose of buying season tickets for the hockey game? [1,313] A. No, sir. I wasn't at that, if there was one.

Q. You never heard of that? A. No, I didn't.

Q. Were you ever at a meeting when a decision was made to buy season tickets for the baseball— A. No, sir.

Q. —season. A. No, sir.

Q. Or a box for the baseball season? A. No, sir.

Q. Were you ever at a meeting when a decision was made to buy an automobile? A. No, sir.

Q. For Mr. Callanan, from the Fund? A. No, sir.

Q. Were you ever at a meeting when a decision was made to buy a farm up around Clarksville, Missouri, from the proceeds of the Fund? A. No, sir.

Q. Did you ever hear of the Political Fund, Incorporated? A. Incorporated?

Q. Yes. A. No. No, sir.

Q. Were you ever at a meeting when someone was [1,314] authorized to have in excess of a hundred thousand dollars in cash in a safety deposit box? A. No, sir.

Q. Sir, were you ever at a meeting when a decision was made to buy house trailers for any member of the Fund?

A. No, sir.

Q. Were you ever at a meeting when any person, including the Director, ever said that, "Now, members, we have a million or so dollars in the Fund"? Or fifty thousand dollars? Or any amount of money in the Fund?

A. No. No. No, sir.

Q. Nobody ever told you at any meeting how much money was in the Fund? A. No, not that I recollect; no, sir.

Q. Did anybody ever tell you how much had been spent out of it? A. No.

Q. Did you ever hear it discussed at the meeting as to whether or not the money could be used for the personal use of officers and directors of the Fund and the Union? A. No, sir.

Q. Were you ever at a meeting of the Fund when it was decided to vote Mr. Lawrence Callanan a salary of \$22,000 a year from the Fund? [1,315] A. No, sir.

Q. You haven't heard of any of these things? A. No, sir.

Q. Well, as a member of the Fund, were you ever invited to sit in the season boxes at the hockey game? A. No, sir.

Q. In the season boxes at the baseball game? A. No, sir.

Q. Were you ever invited to the Stadium Club? A. No, sir.

Q. Did you ever hear of the Stadium Club? A. I've heard of it.

Q. Sir, did any person ever tell you that 20 per cent, or 50 per cent, or some other percentage of the total money paid into the Fund would be used for things other than political purposes? A. No, sir.

Q. You understood that a hundred per cent of it would be used for political purposes? A. That's right. That's right.

Q. Would you have paid into the Fund had you understood that only a part of it was going for political purposes? A. No, I don't believe I would.

Q. You would not have paid? [1,316] A. No, I don't believe I would; no.

Q. Would you have paid into the Fund had you known that proceeds or money from that Fund were being used to pay Mr. Callanan a salary of \$22,000 a year? A. No, sir, I wouldn't.

Q. You would not have paid? A. No, sir, I wouldn't.

Q. Would you have paid into the Fund had you known that as much as \$3,000 a year was being paid for season box seats for the hockey season? A. I would not.

Q. Would you have paid into that Fund had you known that over a hundred thousand dollars was being spent for a farm up near Clarksville, Missouri, that would be titled in the name of the Fund, Incorporated? A. No, I wouldn't.

Q. You mean none of these things have ever been called to your attention? None of these type of expenditures have ever been called to your attention? A. No.

Q. Sir, you have a family? A. Yes, I do. Not at home.

Q. Yes, sir. You have been working as a pipefitter at least since 1963? [1,317] A. Yes, sir.

Q. And have been paying regularly into this Fund? A. Yes, sir.

Q. Each and every week? A. Yes, sir.

Q. At a time, you were paying at least \$5.00 a week, or \$20.00 a month? A. Yes, sir.

Q. And thought all the time that every penny of it was used for political purposes, and political purposes only? A. That's right.

Q. Would you have voluntarily paid had you known that the facts were otherwise? A. No, I wouldn't; no.

Q. Sir, you indicated that you signed a Voluntary Contribution Agreement? A. Yes, sir.

Q. I believe you called this a pledge card? A. Well, voluntary pledge card; yes, sir.

Q. Well, now, sir, when did you first hear that it was a pledge card? A. Well, I don't know. That's just a matter of speech on my part, I guess.

Q. Have you heard it referred to as a pledge card only [1,318] within the last week or ten days? A. No; before then.

Q. You did? A. Yes.

Q. Sir— A. You pledge a contribution, just like you would anything else.

Q. Did you attend a little meeting out at the hall last Wednesday night? A. No, sir, I did not.

Q. Did you hear of that meeting? A. No, I didn't get anything on it. I didn't hear much about it.

Q. Did you hear anything about it? A. I heard—I knew there was a meeting; yes, sir.

Q. Were you told what the purpose of the meeting was? A. No, sir, I was not.

Q. Now, sir, tell this Court and jury if anyone has suggested to you that you call this Voluntary Contribution Agreement a pledge? A. No one.

Q. Within the last week or ten days? A. No one has suggested that to me.

Q. You mean you use the word pledge? [1,319] A. As a matter of speech, I guess you would call it; yes.

(Thereupon Government's Exhibit No. 216 was marked by the reporter for the purpose of identification.)

Q. What do you understand a pledge to be? A. Well, you pledge a contribution to a certain thing, and you fulfill it. You make your contribution.

Q. And you pledge for an exact amount? A. Yes; that's right.

Q. Now, when you signed this card, did you specify on there a specific amount? A. On this contribution, yes.

Q. Contribution, you specified a specific amount? A. Yes.

Q. Are you sure of that? A. I'm almost positive.

Q. Are you sure you just didn't sign it in blank? A. No.

Q. And not even read it? A. I read it; yes.

Q. I'll show it to you, sir, and ask you to see if that is a true copy of the one that you signed?

(Mr. Riddle handed exhibit to the witness.)

A. That's it.

Q. Is it? [1,320] A. Yes.

Q. Is that your signature on it? A. That's my signature.

Q. Now, sir, can you look at that and see how much—
A. No.

Q. —you pledged? A. No, I didn't put any amount.

Q. You didn't put any amount in it, did you? A. No, sir.

Q. You just left that up to them. Would you pay whatever was being charged? A. Whatever was agreed on.

Q. Well, this agreement here was sort of an open agreement? A. Well, it was understood that it would be 50 cents a day.

Q. Well, back on January the 11th of 1963, was it 50 cents? A. Well, '63, that was—I believe that was a dollar a day then, sir.

Q. \$5.00 a week? A. Yes, sir.

Q. Sir, was it your understanding that these payments of \$5.00 a day, or up to \$20.00 a week—or \$5.00 a week, up to [1,321] \$20.00 a month, were paid by you because it was to the benefit of the Union? A. Yes, sir.

Q. You considered this Union business and Union activity? A. Not directly connected with the Union, the running of the Union, no. As a political fund.

Q. I see. Now, monies that you spend for purely legitimate and proper union purposes, you get an accounting of that? A. Yes.

Q. You have financial statements rendered? A. Yes, sir.

Q. And these are passed out, and all members have access to them? A. Yes, we have an accounting of it; yes.

Mr. Riddle: Yes, I believe I have nothing else to ask of this witness.

The Court: Any redirect?

Mr. Nangle: Could we have a moment, Your Honor?

The Court: Yes.

Mr. Riddle: I'd like to offer in evidence the Government's—

The Court: I think you better offer them at the time of your rebuttal.

[1,322]

Redirect Examination.

By Mr. London:

Q. Mr. Gilley, I am going to hand you what Mr. Riddle has had marked as Government's Exhibit 216 for identification. That is the card that you testified—that is a copy of the card that you testified that you signed; is that correct, sir? A. Yes.

Q. Would you read that out loud, please?

Mr. Riddle: If it please the Court, it is in evidence and—

The Court: Is this the Pipefitters Voluntary Fund card?

Mr. London: Yes, sir.

The Court: It's been received, read several times.

Mr. London: I know, but in view of some of Mr. Riddle's questions, I'd like to have him read it so I can question him about various portions of it, Your Honor.

The Court: Well, he's read it. I think you can question him about it, Mr. London.

Q. (By Mr. London.) Mr. Gilley—I am sorry.

The Court: There's been so much time consumed in the exchange between us as there would have been in the reading. Go ahead.

Mr. London: I agree. Mr. Gilley, I direct your [1,323] attention to the second paragraph of that card. Does it say that the money that you are contributing is to be expended by those in charge of the Fund, in their sole judgment and discretion, for political, educational, legislative, charity and defense purposes? A. It says that.

Q. And at the time that you signed the card, it said that, didn't it, sir? A. Yes.

Q. Now, Mr. Riddle has asked you, sir, about some baseball tickets and some hockey tickets. Do you know how many candidates, or legislators, or congressmen were entertained by the Voluntary Fund in those baseball seats, or in those hockey seats, sir? A. No, sir.

Q. Do you know how many candidates, or legislators, or politicians were entertained by the Fund at the Stadium Club, sir? A. No, sir.

Q. You would have no objection if they were using the money to entertain these congressmen and politicians if it was beneficial to labor? A. If it was beneficial to labor I would have no objection.

[1,324] Q. And this farm down at Clarksville, are you aware that that property is to be turned into a retirement home for steamfitters? A. Yes, sir.

Q. You knew that, didn't you, sir? A. Yes, sir.

Mr. London: That's all.

Recross-Examination.

By Mr. Riddle:

Q. Sir, you knew about the farm up at Clarksville? A. Yes.

Q. Did you understand that that was a farm purchased by the Union? A. By the Union?

Q. Yes, sir. A. Yes.

Mr. London: I object to the form of the question, Your Honor, as being a conclusion on the part of this witness. What he understood would not be binding in any way on the parties in this cause.

The Court: It will be overruled.

Q. (By Mr. Riddle) You have been told at regular Union meetings that this farm was purchased by the Union for and on behalf of the Union membership? [1,325] A. Yes, sir.

Q. Sir, this is the first time this morning that you ever knew that that farm was purchased out of the Political Funds? A. The first time I heard of it.

Q. Yes, sir. You consider that a legitimate, proper expenditure for the Union to make, namely, a farm for the enjoyment and recreation of its Union members? A. For the Union to do that; yes.

Q. Yes, sir. Did anyone ever explain to you why funds were not spent directly out of the Union for that purpose, rather than having funds spent out of an unaccountable account? A. No.

Mr. Riddle: That's all.

Mr. London: Nothing further.

The Court: You may step down. Call your next witness.

(Witness excused.)

HARRY TIPPETT,

being first duly sworn, testified in behalf of the defendants as follows:

Direct Examination.

By Mr. Randall:

Q. Mr. Tippet, would you state your full name, please, sir? A. Harry Tippet.

[1,326] Q. And where do you live? A. 732 Troy Road, Collinsville, Illinois.

Q. Do you own your own home over there? A. No.

Q. Mr. Tippet, are you a member of Local 562? Pipefitters Local 562? A. No.

Q. Do you work under the jurisdiction of Pipefitters Local 562? A. Yes.

Q. And are you a member of some other local? A. Yes, sir.

Q. And what local is that, sir? A. Local 798, Tulsa, Oklahoma.

Q. And how long had you worked under the jurisdiction of Local 562? A. Seven years.

Q. Seven years? A. Yes, sir.

Q. Beginning what date, sir? A. In August of '62.

Q. August of '62? Have you worked continuously under the jurisdiction of 562 since then? A. No. I worked out of a couple other locals when we [1,327] were out of work in this area.

Q. I see. And for how long did you work under other locals during this 7-year period? A. A matter of sixty days, at the most.

Q. Except then for sixty days, you have worked under the jurisdiction of 562 for a period of seven years back in 1962? A. Yes, sir.

Q. Now, sir, where do you work at the present time? A. Hussmann Distributing Company.

Q. And how long have you worked there? A. Three years.

Q. Now, Mr. Tippet, did you ever sign a card, Contribution Card to the Voluntary Political Fund? A. Yes.

Q. And do you remember when you did that? A. Several years ago. I don't recall when.

Q. Now, have you ever attended any of the meetings of the Voluntary Political Fund? A. No, sir.

Q. Now, have you contributed to the Voluntary Political Fund? A. Up until eighteen months ago, yes, sir.

Q. And what have you done during the last eighteen months? A. I haven't contributed anything.

[1,328] Q. And have you continued working during that—since you stopped contributing? A. Yes, sir. I have had financial trouble, and I stopped.

Q. You stopped? A. Yes, sir.

Q. Now, has anyone come to you and talked to you about the fact that you are not contributing? A. No, sir.

Q. Has anyone said anything to you at all about it? A. No, sir.

Q. Were your contributions that you made prior to a year and a half ago, voluntary? A. Yes, sir.

Mr. Randall: I believe that's all, Your Honor.

The Court: All right. Mr. Biddle.

Cross-Examination.

By Mr. Riddle:

Q. Sir, do you remember when you signed this card originally? A. Not offhand. I would say six or seven years ago when I started, first started working out of this Local.

Q. Just as soon as you came on the job for this Local, you signed one? [1,329] A. I was asked to sign one; yes.

Q. By whom? Foreman? Steward? A. Steward on the particular job.

Q. Union steward? A. Yes, sir.

Q. Did he give it to you the first day you came on the job? A. I don't recall, sir.

Q. Do you remember what the charge was into the Fund? A. At that time, I think it was fifty cents or a dollar. I don't recall which.

Q. Was it raised? A. Yes, sir, it's been raised in the last several years.

Q. Do you remember when it was raised the first time? A. '64; something along in there, possibly.

Q. Do you know what it was raised up to? A. It was fifty cents, and then an additional fifty cents later.

Q. Sir, I'll show you what's been marked the Government's Exhibit 206, and ask you to examine it and study it closely for the purpose of refreshing your recollection.

Can you see it on this easel? A. Yes, I can see it.

Q. You were what they generally refer to as an out-of-towner? [1,330] A. Yes, sir.

Q. Now, sir, by looking at this exhibit, I believe it indicates that there was an increase from \$1.50 per day about October 15, 1963, up to \$2.00 a day. Does that refresh your recollection as to when that increase went into effect? A. That could be in that general vicinity; yes, sir.

Q. And did you go along with that increase? A. Yes, sir.

Q. Did you pay it every week? A. Yes, sir.

Q. Up until what time? A. Up until March of 1967.

Q. Up until March of '67? A. Yes, sir.

Q. What job were you working on then? A. I was working for the company I am working for now, sir.

Q. Who is your steward? A. Edward Joyce.

Q. Edward Joyce? A. Yes, sir.

Q. Was he the man you had been paying to all along?

A. Either him, or mailed it in to the Local.

Q. All right. Now, do you remember the first week you decided not to pay? [1,331] A. Yes, sir, I remember it very well.

Q. What happened? What were your conditions? A. Well, we had a couple deaths in my family, and I had to take care of the funeral expenses for the two people.

Q. I see. Now, you told Mr. Joyce about that? A. I don't recall whether I told him. He knew about the death in the family. As far as the payment on the thing, I just stopped paying it, because I had to make these other obligations.

Q. You didn't tell him why? A. I didn't pay him all the time, sir. I mailed it in, or whenever I happened to see him. Sometimes I don't see him for two or three months at a time.

Q. My question is, sir, did you tell Mr. Ed Joyce? A. Not that I know of.

Q. Why you were going to stop? A. Not that I know of; not that I can recall.

Q. Did you drop a note to the Union office? A. No, sir.

Q. Did you talk to anybody down at the Union office? A. No, sir.

Q. Well, when Ed Joyce came around to collect that day, is it your testimony you didn't tell him anything?

A. He never come to me to collect, sir. Like I say, I [1,332] didn't see him for two and three months at a time. Whenever I would see him, if I wanted to give him the money, I'd give it to him. He would never come and approach me for it.

Q. All right, sir. You are not paying now? A. No, sir.

Q. All right, sir. Sir, during the period of time that you were paying \$2.00 a day, or \$10.00 a week, did you know what the regular members were contributing at that time? A. Yes, sir.

Q. What were they contributing? A. A dollar.

Q. Was any explanation ever made to you as to why you were paying twice as much as they were? A. Well, I wasn't in this Local, and I was happy to pay the \$2.00 to work out of this Local.

Q. Yes, sir. This is why you paid the \$2.00, to work out of this Local? A. Yes, sir.

Q. You felt that it was necessary in order to work out of this Local? A. No, sir.

Q. Oh, I see. Well, why were you paying the \$2.00 then each and every week for that period of time? A. Because I wanted to pay it.

[1,333] Q. Because you wanted to work, didn't you? A. No, it wasn't that. I volunteered this. When I decided not to pay it, no one said a thing to me.

Q. But the time you were paying it, all that period you wanted to work, and you wanted a job? A. No. I had the job. I just decided to pay it.

Q. The first week you worked? A. Yes, sir, the first week I worked I paid it.

Q. And you thought that it was all right for you to pay twice as much as the local members? A. I was paying it as an individual. I didn't care what the others did. I was happy to pay the two, would pay three if they

raised it to three; if they raised it to five, be happy to pay it.

Q. Why? A. Because I have been well satisfied in this Local.

Q. Sir, you worked in two other locals? A. I have worked in numerous locals.

Q. But during the past few years? A. Yes, sir.

Q. What did you pay them for working on their jobs?

Mr. London: I object to the form of the question, Your Honor.

Mr. Riddle: I will withdraw that question.

[1,334] Q. Did you pay them anything? A. Yes, sir.

Q. What? A. It averaged out about the same, a dollar or two dollars a day, whatever particular local you work out of.

Q. Those were called assessments, weren't they? A. That is because—

Q. Weren't they called assessments? A. I don't know what they called them, sir. The steward on that particular job that I was working on come by and said that it cost you so much a day, and here's the amount. If you want to pay it, fine. If you don't you don't have to.

Q. On the other jobs? A. Yes.

Q. On the other locals, where were you working? A. Oh, I worked in East St. Louis, Illinois; worked in Chicago, Illinois; worked in Moline, Illinois.

Q. When did you work in East St. Louis? A. In East St. Louis, I worked there in '63.

Q. '63? A. Yes, sir.

Q. What did it cost you to work on that job? A. I think we paid \$5.00 a week, sir.

Q. Who did you pay that to? [1,335] A. At that particular job, I paid it to the steward.

Q. Was that voluntary? A. Yes, sir.

Q. Was it into a voluntary fund? A. I don't know, sir. If you didn't want to pay it, you didn't have to.

Q. Oh, you didn't have to pay those people in East St. Louis anything? A. No, sir.

Q. You didn't have to? A. No, sir.

Q. As a member of 562, were you told what all this money you were paying in was used for? A. Political Fund.

Q. Anything else? A. And to run the Political Fund is mostly what I have heard; yes.

Q. Anybody ever tell you it was used for any other purpose? A. No, sir.

Q. As far as you knew, that was all of it? A. Yes, sir.

Q. Have you been agreeable to paying into that Fund? A. Yes, sir.

[1,336] Q. \$5.00 a week, even though it were used for other purposes? A. I never paid \$5.00 a week.

Q. You never did pay \$5.00? A. I paid \$10.00 a week.

Q. \$10.00 a week, yes. Would you have paid your \$10.00 a week had you known it was used for purposes other than political matters? A. I don't know, sir. They never told me that it was being used for anything other than political matters. If I decided I didn't want to pay it, I wouldn't pay it.

Q. Sir, had you known it was being used for the purpose of a farm up near Clarksville, Missouri, for the benefit of the members of Local 562, would you still have been willing to pay your \$10.00 a week? A. I didn't hear the first part of that, sir.

Q. If you had known that part of the money, at least \$150,000 of it, was being used to buy a farm for the use and benefit of members of 562, would you have been will-

ing to pay your money? A. Yes, sir, I'd be willing to pay it.

Q. Just to help the members of 562? A. Right.

Q. Even though you and your family couldn't use it? [1,337] A. Well, we use all the facilities that 562 has at this point, beings I work out of it, and I think that I would be subject to use whatever they had.

Q. Sir, during this time that you were working for 562, do you continue to pay your dues and assessments back in Tulsa? A. Yes, sir.

Q. What do they run you a week? A. They run \$10.00 a month.

Q. Flat amount? A. Yes, sir.

Q. When you traveled these other jobs, did you use a travel card? A. Yes, sir.

Q. Every time you went to East St. Louis, and Chicago, and the other places, you used a travel card? A. Yes, sir.

Q. What did that travel card cost you a month? A. The travel card never cost me anything out of the particular local. They charge you to put the travel card in in Chicago. In East St. Louis, they never charged anything to put the travel card in.

Q. Is the travel card rate \$8.00 a month? A. Yes, sir.

Q. You have never used a travel card on a 562 job? [1,338] A. Not since I have been here; no, sir.

Q. And the \$8.00 travel card cost is money paid directly into the Union? A. Right.

Q. That is, the host union, or the union that you are working for and under? A. Right.

Q. Would you rather pay into this Fund \$20.00 a week than the \$8.00 travel charge? A. Would I what, sir?

Q. Rather pay the \$20.00 during all this period of time? A. What \$20.00, sir?

Q. Well, excuse me. \$10.00 a week. Would you rather pay the \$10.00 a week? A. When I am working out of this Local here, yes.

Q. Than the \$8.00 a month travel charge? A. I would rather pay the \$10.00 a week, because I am entitled to the benefits of 562 when I pay the \$10.00 a week.

Q. You are entitled to the benefits of 562 when you pay the \$10.00 a week? A. Yes.

Q. And this is really why you pay it? A. No. I haven't paid it in eighteen months.

Q. This is why you did pay it? [1,339] A. I paid it because I was working out of this Local, and I am entitled to the benefits, and I wanted to help the Local as best I could, so I gave them \$10.00 a week.

Q. Sir, did you attend a meeting last Wednesday night? A. I don't attend any 562 meetings.

Q. You never attended any meetings? A. Never been to a meeting of 562.

Q. What about any Fund meetings? Have you ever been to one of them? Have you ever been to any of them? Have you ever heard of any Political Fund meetings? A. I haven't attended any meetings of any kind.

Mr. Riddle: All right. That's all.

The Court: Any redirect?

Mr. Randall: No, Your Honor.

The Court: Step down.

(Witness excused.)

JAMES LACHTRUP,

being first duly sworn, testified in behalf of the defendants as follows:

Direct Examination.

Q. State your name, please. A. Sir?

Q. State your name. A. James Lachtrup.

[1,340] Q. Where do you reside, Mr. Lachtrup? A. 564 Lind Road.

Q. Where is Lind Road? A. It is in Mehlville.

Q. Do you own your own home out there? A. Yes, I do.

Q. Are you employed at this time? A. Yes, sir.

Q. By whom, sir? A. Bechtold Corporation.

Q. And what is their occupation and business? A. They are building a powerhouse at Labadie.

Q. And what type work do you do at the powerhouse?
A. I am a pipefitter.

Q. And are you a member of Pipefitters Local 562?
A. Yes, sir.

Q. How long have you been a member of the Local.
A. A little over twenty years.

Q. Are you familiar then with the Voluntary Fund?
A. Yes, sir.

Q. And did you sign a Voluntary Fund agreement card? A. I did.

Q. And do you contribute to the Voluntary Fund? A. I do.

[1,341] Q. And how long have you been contributing, sir?
A. Since it's been in force.

Q. Now, what is your position out at the Labadie Powerhouse? Are you a journeyman? A. Journeyman at this time.

Q. You don't collect any of the funds yourself then?
A. No, sir, I don't.

Q. To whom do you pay your Fund? A. To my foreman.

Q. And has he ever told you that you had to pay this Fund? A. Never.

Q. Now, how much are you, at this time, donating to the Fund, sir? A. \$3.75 a week.

Q. And that is based upon your overtime that you are getting out? A. True.

Q. What is your weekly wage? A. The total or take-home?

Q. Take-home. That is what counts. A. Take-home, approximately two fifty-two.

Q. That doesn't count the two dollars and seventeen cents per hour fringe benefits, or tax, or anything out of that? [1,342] A. No.

Q. You are paying \$3.50 into this Fund? A. Three seventy-five.

Q. Now, do you know what the money that you pay in is used for, Mr. Lachrup? A. I have no idea.

Q. What is your idea? A. It goes to help elect representatives that are going to help labor, and so forth and so on.

Q. And are you in favor of this? A. Definitely.

Mr. Daly: Your witness.

Cross-Examination.

By Mr. Riddle:

Q. Sir, you said you were a journeyman at this time?
A. Yes.

Q. Have you been a foreman in the past? A. Yes, I have.

Q. How long were you a foreman? A. Well, at various times. The last time was, I was a general foreman for about three and a half years.

Q. Were you a regular foreman for a period of time?
A. Yes.

Q. How long? [1,343] A. Well, with various companies it was one year to two years, and so forth.

Q. Well, you have been a foreman over the last ten years more than you have been a journeyman? A. I would say about half and half.

Q. About half and half. Who decides whether you are a foreman or a journeyman on the job? The Union? A. Well, no. The contractor.

Q. He decides that? A. Yes.

Q. Does the Union have to ratify that? A. They never have, that I know of.

Q. At that time that you were general foreman, did the Union ratify that? A. No.

Q. Sir, you have never missed a single payment into this Fund? A. Not to my recollection.

Q. You have always paid the established rate, whatever that was? A. Yes, sir.

Q. If it was 50 cents a day, you paid that? A. If it was so, yes.

Q. A dollar a day, you paid that? [1,344] A. Yes.

Q. You paid into the Callanan Gift Fund? A. No. To the Voluntary Fund.

Mr. Daly: Your Honor, may we object to that question, and ask it be stricken, and the jury instructed to disregard it?

The Court: Well, his answer was no, he did not contribute.

Mr. Daly: I object to the question, Your Honor.

The Court: All right. It will be overruled.

Q. (By Mr. Riddle) Sir, did you say that you did not contribute to the Callanan Gift Fund? A. To the Voluntary Fund I contributed to.

Q. All right. Well, it is your understanding that the Callanan Gift, whatever that was, was paid out of the Voluntary Fund?

Mr. Daly: I will object to all these questions concerning the Gift Fund. May our objections go to all of these questions by Mr. Riddle concerning the Callanan Gift Fund?

The Court: All right. It will go to all of them. It will be overruled.

Q. (By Mr. Riddle) Sir, did you understand that the Callanan Gift was to be paid out of the Voluntary Fund?

A. If so, then I contributed to it.

Q. You just contributed just every week? [1,345] A. Yes.

Q. Into something? A. Into the Voluntary Fund.

Q. And if the proceeds from the Voluntary Fund for two or three months were diverted into a Callanan Gift Fund, then you—— A. I was all for it; yes.

Q. Sir, with the exception—Let me ask you this. Strike that question.

Do you know how much money was paid as a gift to Mr. Callanan? A. No.

Mr. London: May we approach the bench?

The Court: Come up.

(Thereupon the following colloquy ensued among the Court and counsel, at the bench, out of the hearing of the jury:)

Mr. London: If the Court please, it is my recollection that the same or similar question was propounded by Mr. Riddle yesterday, and we objected to the question at that

time, and the Court sustained the objection, pointing out there that had no bearing upon the issues of this case, if my recollection serves me correctly.

We would now object to this question, incorporating all the grounds that have been raised with regard to questions [1,346] to the Gift Fund, and if, in view of the fact that this is in contradiction to the Court's ruling of yesterday, add that the question is being asked for the purpose of prejudicing the jury. We would request in addition to our objection that the jury be instructed to disregard it, that it be stricken, and that a mistrial be declared.

The Court: Well, I will sustain the objection. I will tell the jury to disregard it. I will deny the request for a mistrial. It seems as though I did sustain such an objection yesterday, Mr. Riddle.

Mr. Riddle: I think you did, Your Honor, and I'm not unmindful of the Court's ruling on that.

I think this is entirely different though. The witness has testified that he gave into the Fund right along continuously, and I think that the different situation is presented by his answer when he said whatever the Fund was used for during that period of time, then I gave into it, and it was for that distinction that I thought that this was distinguishable from the basis that the Court's ruling was yesterday.

The Court: It didn't make any difference to him what he was giving to, he was going to give. So I will sustain the objection as to what the amount was.

Mr. Riddle: What the amount was. All right, sir.

(Thereupon the trial was resumed before the jury as [1,347] follows:)

The Court: The jury will disregard that last question.

Q. (By Mr. Riddle) Sir, do you recall ever receiving any information as to what uses, for what purposes the money that you paid into this Fund were being used? A. Yes.

Q. When did you get such an explanation? A. I think it was brought up after one of the regular meetings. Now, as far as I can recollect—I'm not sure.

Q. What were you told at that time? A. It was for the election, to help in the election of people that could help the labor movement.

Q. Sir, were you told it was used for any other purpose? A. Yes, I think, if I recall correctly, I think it was brought up that it was to help Mr. Callanan in some way.

Q. Was a salary voted for him? A. I don't recall.

Q. Well, do you recall being told that he was being paid a salary of \$22,260 per month—I mean per year? A. No, sir, I don't recall; no.

Q. That figure wasn't told to you, as you recall it? A. I don't recall at all.

Q. Do you know how much money has been paid into the Fund? [1,348] A. No, I don't.

Q. You don't have the slightest idea? A. No, sir.

Q. You don't know whether it is a million or two million? A. I wouldn't have any idea; no.

Q. Nobody has ever told you? A. No.

Mr. Riddle: I have nothing further.

Mr. Daly: Let me ask you one question.

Redirect Examination.

By Mr. Daly:

Q. The money that you contributed to the Fund, did you contribute that voluntarily? A. I sure did.

Mr. Daly: I have no further questions.

The Court: Anything else, Mr. Riddle?

Recross-Examination.

By Mr. Riddle:

Q. Do you pay your dues and assessments voluntarily?

A. I do.

Mr. Riddle: Yes, sir.

The Court: Anything else?

Mr. Riddle: That is all.

Mr. Daly: No, Your Honor.

[1,349] The Court: Step down.

(Witness excused.)

The Court: Members of the Jury, we will have our morning recess. Bear in mind the admonition I have given you heretofore.

(Following a brief recess, a colloquy ensued among the Court and counsel, at the bench, out of the hearing of the jury and the reporter.)

(Thereupon the trial was resumed before the jury as follows:)

TOM McNAMARA,

being first duly sworn, testified in behalf of the defendants as follows:

Direct Examination.

By Mr. London:

Q. Will you state your name, sir? A. Tom McNamara.

Q. Where do you live? A. 7516 Ethel Avenue, Richmond Heights.

Q. Mr. McNamara, what do you do for a living? A. Pipefitter.

Q. Are you a member of Pipefitters Local 562? A. No, sir.

Q. Are you working on a job under the jurisdiction of [1,350] Pipefitters Local 562? A. Yes, sir.

Q. How long have you been working on a job under their jurisdiction? A. Approximately five years.

Q. Are you familiar, sir, with the Voluntary Fund? A. Yes, sir.

Q. Have you had occasion, sir, to sign a Voluntary Fund card, or contribution card? A. Yes, sir.

Q. When did you sign that, if you know, Mr. McNamara? A. 1964.

Q. And did you pay into the Voluntary Fund after the time that you signed that card? A. Yes.

Q. Are you paying into the Fund at the present time? A. No, I haven't paid for some time. Nobody has asked me for it.

Q. How long has it been since you have paid, sir? A. March, I'd say.

Q. March of this year? A. (Indicating yes.)

Q. Is that correct? A. Yes, sir.

[1,351] Q. Have you lost your job as a result of not paying? A. No, sir.

Q. Have you lost any overtime, or anything of that nature? A. No, sir.

Mr. London: You may inquire.

Cross-Examination.

By Mr. Riddle:

Q. You say nobody has asked you for it since last March? A. That's right.

Q. Up until that time, did they ask you for it each week? A. Sometimes, and sometimes they wouldn't. They

generally tell you to go in and pay it yourself, if you wanted to.

Q. But since that time, nobody has asked you for it?

A. No, sir.

Q. What month was this? A. That was March.

Q. Of 1968? A. Yes, sir.

Q. Where were you working in March of '68? A. I taken a trip to California, and then I paid up to date, and then I come back from California after taking a vacation out there, and I come back and I have been working since June 11, and I haven't paid any since then.

[1,352] Q. Oh, you haven't been working since June 11? A. I have been working every day since June 11, but I took a vacation in March.

Q. You took a vacation in March? A. Yes, and April, May.

Q. And you were gone for how long? A. Oh, I guess I was gone for six or eight weeks. Eight weeks, I'd say.

Q. And you began working after you came back? A. Yeah. June 11th I went back to work.

Q. Where did you go back to work then? A. Wohl Hospital.

Q. Wohl Hospital? A. Yes, sir.

Q. You say before you went on vacation you paid up to date? A. Yes, sir.

Q. How much did you owe at that time? A. I don't know. A couple weeks; two or three weeks.

Q. At the rate of what? How much a week? A. Two dollars a day.

Q. Ten dollars a week? A. Yeah.

Q. And you caught up before you left? [1,353] A. Sir?

Q. You caught up before you left? A. Yes, sir.

Q. Now, on the Wohl Hospital job, who was your foreman there? A. A fellow named Irving Connors.

Q. Sir, have you paid or not paid since you have been at the Wohl Hospital? A. I have not paid.

Q. And nobody has asked you for it? A. No, sir.

Q. How many were working on that job? A. Another man and myself. Connors and myself. Then, of course, we went from other jobs.

Q. Just you and Connors, the only two people on this job? A. Yes.

Q. And you are on it now? A. No, sir.

Q. How long were at the Wohl Hospital? A. Several weeks.

Q. Several weeks? A. Yes, sir.

Q. Nobody asked you for your money all through that period? A. No, sir. Nobody has asked me for it.

[1,354] Q. Is that the reason you didn't pay it? They didn't come around and ask for it? A. No. I generally go to the hall myself when I get a chance to pay it.

Q. But you just haven't had a chance to do it? A. I haven't had a chance to do it.

Q. Do you plan to catch up? A. Yes, some of these days when I get around to it.

Q. Do you feel that you have an obligation to pay it? A. No.

Q. How much do you owe now? A. I don't know. I have to check the days I worked, the days I didn't work.

Q. What local are you a member of? A. I am not a member of any local at the present time.

Q. So you aren't paying any dues or assessments now? A. No, sir.

Q. To no local? A. No, sir.

Q. You are paying nothing to 562? A. No, sir.

Q. When is the last payment you made to 562? A. The last payment—I never have made a payment to 562. The last time I gave to the Voluntary Fund was in March.

[1,355] Q. That's not 562? A. No.

Q. Did you ever attend any meetings where the use of the money that you and all the others are paying in was discussed? A. I believe I have; yes.

Q. One or more? A. One, I think.

Q. When was that meeting? A. Oh, I couldn't remember that, sir.

Q. Some time ago? A. Oh, yes; quite a while ago.

Q. What did you understand the money was to be used for? This \$10.00 a week that you were paying? A. Well, it was Voluntary Fund for whatever the officers, or whoever was using it would see fit to use it, whether it would be Political Fund or what, I wouldn't know.

Q. You didn't care? A. I didn't care.

Q. Did you ever miss a week before you went on vacation in March of '68? A. I missed some because on account of the cold weather; yes.

Q. But not on account of being unemployed? A. I have never drawn unemployment in my life.

[1,356] Q. But for every day you worked before you went on vacation, you paid? A. Oh, yes.

Mr. Riddle: I have nothing further to ask this witness.

The Court: Redirect.

Mr. London: No, sir.

The Court: Step down.

(Witness excused.)

KENNETH L. SCHROEDER,

being first duly sworn, testified in behalf of the defendants as follows:

Direct Examination.

By Mr. Randall:

Q. Would you state your full name, please, sir? A. Kenneth L. Schroeder.

Q. Mr. Schroeder, where do you live? A. Route 1, Box 556, O'Fallon, Missouri.

Q. And, sir, are you a member of Pipefitters Local 562? A. Yes, sir, I am.

Q. How long have you been a member? A. Approximately fourteen years.

Q. And are you working now as a journeyman? A. Yes, sir.

Q. Have you ever been a steward or a foreman? [1,357] A. I am a foreman now.

Q. You are a foreman at this time. And for what company are you working? A. Minneapolis Honeywell.

Q. Now, are you familiar with the Pipefitters Voluntary Fund? A. Yes, sir, I am.

Q. Have you contributed to the Voluntary Fund? A. Yes, sir.

Q. Have you always contributed to it? A. Not on a regular basis.

Q. And how have you made your payments? A. In person and by check, depending on what circumstances may arise.

Q. To whom did you make them? A. To the Voluntary Fund.

Q. To the hall itself? A. No, not to the hall; to the Voluntary Fund department.

Q. I see. To the Voluntary Fund. But you mailed them in or took them in? A. Mailed them in or took them in.

Q. You did not make them on the job? A. On two occasions, yes, I would believe.

Q. I see. [1,358] A. That would be when I was at the powerhouse, or something like that.

Q. Did anyone ever speak to you about the fact that you were not making them on a regular basis? A. No, sir.

Q. Now, have you ever attended any Fund meetings? A. Yes, sir.

Q. Were any candidates present at some of these meetings? A. Yes, sir, I believe they were.

Q. Can you tell us who some of them were? A. Well, I would say Robert Young and State Representative Pat Hickey I would say. That would be State Senator. Other than that, I can't remember any.

Q. I see, sir. Now, were your contributions voluntary that you made? A. Yes, sir.

Mr. Randall: You may inquire.

Cross-Examination

By Mr. Riddle:

Q. Are you current on your payments now? A. No, sir. I believe I'm about, oh, three weeks.

Q. Three weeks behind? A. Um hmm.

Q. How much do you owe for these three weeks? [1,359] A. Well, it would be two fifty a week.

Q. So if you paid for these three weeks you'd be current? A. Um hmm.

Q. When you said that you paid, often that you didn't pay on a regular basis, you meant by that that you didn't pay every Monday morning? A. I didn't pay every Monday morning. I didn't pay every month sometimes. Sometimes it wasn't every two months.

Q. But you always caught up? A. Eventually, yes, I believe.

Q. And you always caught up at the going rate. Whether it was two and a half a week, or five dollars a week, you always—or whatever it was—you always caught up? A. Yes.

Q. So while you didn't pay on a regular basis, you always did pay? A. There may have been some errors in my calculations, or something like that, I didn't pay.

Q. But it was accidental, not intentional? A. Well, I would say so; yes.

Q. Sir, this Fund meeting that you attended, is that the only one you ever attended? A. No. There has been several.

Q. That you have attended? [1,360] A. Um hmm.

Q. At any of the Fund meetings that you have attended, were you ever given a report on what was happening to the money that you and the others were paying? A. I would think so; yes.

Q. What report was made to you? A. Specifically where the money was going, into specifics I couldn't say. Mostly to the Democratic organizations.

Q. Well, did they say they are using it for any purpose other than political purposes? A. No, I can't say that I heard that.

Q. Is it your impression now, and was it your impression then that all of the money was used for political contributions, political purposes? A. Yes, sir.

Q. Sir, did you ever get a report at any of these meetings that Mr. Lawrence Callanan was being paid a salary of \$22,000 a year out of this money? A. I do believe I did hear something to that statement that he was being paid by the Voluntary Fund to serve, or maybe he wasn't.

I don't know. I would assume he would be. There is a salary connected.

Q. Was he being paid also by the Union? A. Well, naturally he is our business manager.

[1,361] Q. Your understanding was he was being paid by both the Union and the Fund? A. Well, I know he was being paid by the Union. By the Fund, I couldn't swear to that, sir.

Q. All right. Sir, were you ever told that \$150,000 of this money was used to buy a farm up in Clarksville, Missouri? A. I know there's a farm being purchased up at Clarksville, Missouri; yes.

Q. Were you told whether that farm was paid for out of regular Union money or out of the Fund money? A. I would assume it was paid for out of the Fund money.

Q. Out of the Fund money? Were you told that? A. No.

Q. Why would you make that assumption? A. Well, because you can't spend Union funds for private property, I would assume.

Q. Is this private property? A. Not private property; other than money that was to do with the Union funds.

Q. Well, what do you understand the purpose of the farm is for? A. It is for recreational purposes of the 562 members.

Q. I see. Were you told how much the farm cost? A. In dollars and cents, no. I can't say that I honestly [1,362] have heard the price on it.

Q. Sir, were you ever told that some of the money out of the Fund was used to pay attorney's fees. A. No.

Q. As far as you know, it was not? A. As far as I know, it was not.

Q. Sir, were you ever told that some part of the funds were used to buy Mr. Callanan an automobile? A. No, sir, I don't know that.

Q. Sir, were you ever told that some of the funds were used to buy a box seat for the hockey games, costing approximately \$3,000? A. I don't recall anything to that effect either.

Mr. Riddle: I have nothing further to ask this witness.

The Court: Any redirect?

Mr. Randall: No, Your Honor.

The Court: Step down.

(Witness excused.)

ROBERT J. O'LEARY,

being first duly sworn, testified in behalf of the defendants as follows:

Direct Examination.

By Mr. Daly:

Q. Would you state your name, please? [1,363] A. Robert J. O'Leary.

Q. And where do you reside, Mr. O'Leary? A. 1174 Ashford Drive, St. Louis County.

Q. Are you buying that home out there? A. Yes, sir.

Q. Are you employed at the present time, Mr. O'Leary? A. Yes, sir.

Q. And by whom are you employed? A. Bechtold Corporation.

Q. And what business is Bechtold Corporation in? A. They are building a powerhouse in Labadie, Missouri.

Q. Where is Labadie, Missouri? A. Approximately fifty-five miles southwest.

Q. Are you working for Bechtold at a powerhouse out there? A. Yes, sir.

Q. How long have you been working out there? A. Around five weeks.

Q. How long have you been following the pipefitting trade, Mr. O'Leary? A. Three years.

Q. And are you presently a member of Local 562? A. Yes, sir.

Q. How long have you been a member of Local 562? A. Approximately two years.

[1,364] Q. And you worked a year for the Local, and you worked a year in pipefitting prior to the time that you became a member of the Local; is that correct? A. Between ten months and a year; yes, sir.

Q. And during this time that you worked as a pipefitter, before you became a member—pardon me—before you became a member of the Local, did you work under 562 jurisdiction? A. Yes, sir.

Q. Now, are you familiar with the Voluntary Fund? A. Yes, sir.

Q. And do you contribute to the Voluntary Fund? A. Yes, sir.

Q. And did you contribute to the Voluntary Fund, sir, prior to the time that you became a member of the Local? A. Yes, sir.

Q. And prior to the time that you became a member of the Local, how much were you contributing to the Voluntary Fund? A. Well, truthfully, I couldn't tell you the amount. It was based on the hours you worked.

Q. Was it \$2.00 per day? A. Yes, sir.

Q. And now that you are a member of the Pipefitters Local, how much do you pay into it? A. Half a dollar a day.

[1,365] Q. It is 50 cents a day? A. Right.

Q. Are these payments that you make into the Voluntary Fund at this time voluntary? A. Yes, sir.

Q. Were the payments or donations that you made prior to the time that you became a member of the Local, were they also voluntary? A. Yes, sir.

Q. Now, what is your salary as a steamfitter? A. The pay salary is \$5.60 an hour.

Q. Are you a journeyman or foreman? A. Journeyman.

Q. Have you ever been a foreman? A. No, sir.

Q. Have you ever been a steward? A. No, sir.

Q. Then you have never collected any of the Voluntary money from any man other than yourself? A. No, sir.

Q. Who do you ordinarily pay it to? A. My foreman.

Q. Has this been true on any of the jobs you were on? A. Yes.

[1,366] Q. Has anyone ever told you, before you were a member of the Local, or since you have become a member of the Local, that you had to pay this money? A. No, sir.

Mr. Daly: Your witness.

Cross-Examination.

By Mr. Riddle:

Q. Sir, what is your former union affiliation before 562?

A. I was a bricklayer.

Q. And you became a member of 562 on what date? A. November, 1966.

Q. So all through 1964 and—Can you see this chart, sir? A. Now I can.

Q. Do you understand the chart from looking at it? Pipefitters Voluntary Fund out-of-towners. Were you considered an out-of-towner until you became a regular? A. Yes, sir.

Q. Sir, does this chart accurately reflect that your contributions from \$1.50 a day were increased to \$2.00 a day about the middle of October, 1963? A. I didn't start till '66, sir.

Q. You started in '66? [1,367] A. Yes, sir.

Q. Excuse me. In '66, you came on the first 562 job? A. Yes, sir.

Q. Now, how long were you on the job before you got one of these cards to sign? A. I truthfully couldn't answer that. I imagine a week or so.

Q. Before your first paycheck? A. Yes, sir.

Q. At that time, you began paying \$2.00 a day? A. Yes, sir.

Q. You paid \$2.00 a day each and every week, or at the rate of \$2.00 a day? A. Yes, sir.

Q. That would be \$10.00 a week? A. Well, it would vary, sir. I was at the powerhouse at Portage des Sioux, and some weeks you work more than five days, actually an hour's overtime. See, the amount varied.

Q. So it could have been more than \$10.00 if you worked more than forty hours? A. It also could be less.

Q. If you worked less than forty hours? A. Yes, sir.

Q. You say you voluntarily paid this amount, \$2.00 per [1,368] day, regularly until you became a member? A. Yes, sir.

Q. And on the day you became a member, you decided to voluntarily contribute a lesser amount? A. Yes, sir.

Q. Is there any reason why your voluntary contribution, your voluntary payment reduced the very day you became a member of 562? A. No. It was customary practice that the local men paid a half a dollar a day.

Q. Yes, sir. A. And that is the reason it dropped down to a half dollar.

Q. It's a practice or a custom? A. Well, at the time I became a member, the local men were paying a half dollar a day, so I came under that jurisdiction.

Q. Sir? A. When I became a member of Local 562, the men were paying a half dollar a day, so I came under that jurisdiction.

Q. Were you pleased to pay less than you had been paying? A. This day I was pleased to pay both amounts.

Q. Yes, sir, but were you pleased to pay 50 cents a day rather than \$2.00 a day? [1,369] A. Yes, sir.

Q. Why did you, all of a sudden, decide to pay 50 cents a day rather than \$2.00 a day?

Mr. Daly: Your Honor, I will object. It is repetitious. I think the witness has already answered that.

The Court: He may answer...

The Witness: Like I said before, it was customary for the local men to pay half a dollar day. When I became a local man you follow the custom.

Q. You were paying what everybody else was paying? A. I volunteered to pay what everybody else was paying.

Q. You were paying the same assessments everybody else was paying? A. No, sir.

Q. You are now? A. In regard to what, sir? The Voluntary Fund or dues?

Q. Dues. A. Dues, yes, sir. That is, my union dues you mean.

Q. These voluntary payments are assessments, aren't they? A. No, sir.

Q. You have been told that, haven't you? A. I know that.

Q. You know that? A. Anything voluntary couldn't be an assessment. That [1,370] is my interpretation of it.

Q. Did you attend this little meeting last Wednesday night out at the hall? A. No, sir. I was sick.

Q. Were you invited to attend a meeting? A. The local members, yes, sir.

Q. You couldn't go? A. No, sir. I didn't attend.

Q. Did anybody tell you to be sure and refer to those as voluntary payments rather than assessments? A. No, sir.

Q. They didn't. Nobody? A. (Indicating no.)

Mr. Riddle: I have nothing further.

Redirect Examination.

By Mr. Daly:

Q. Mr. O'Leary, does your union have a regular union meeting the second Wednesday of every month? A. Yes, sir, except for two months in the summer.

Q. Was last Wednesday the second Wednesday? A. Yes, sir.

Mr. Daly: I have no further questions.

The Court: Anything else? All right. Step down.

(Witness excused.)

[1,371]

HENRY KLINGLE,

being first duly sworn, testified in behalf of the Defendants as follows:

Direct Examination.

By Mr. London:

Q. State your name, sir. A. Henry Klinge.

Q. Where do you live, Mr. Klinge? A. 9911 Fonda Drive.

Q. Where is that located, sir? A. Bellefontaine Neighbors.

Q. Mr. Klinge, are you a member of Local 562? A. Yes, sir.

Q. How long have you been a member? A. Since '51. 1951? A. Yes, sir.

Q. And where are you now employed, sir? A. Carrier Corporation.

Q. Are you familiar with the Voluntary Fund, sir? A. Yes, sir.

Q. Did you ever sign a Voluntary Fund card? A. Yes, sir.

Q. When did you sign that, sir? [1,372] A. I don't recall exactly.

Q. Did you make some contributions into the Fund after you signed the card? A. Yes.

Q. How did you make those contributions, sir? On a weekly basis or—— A. No; periodically.

Q. Would you explain to us just how you make your payments? A. Three months, or usually when I go down to the hall I usually paid my assessments; three months; every three months; then I would go across to the Voluntary Fund office and contribute.

Q. Would you pay your contribution into the Voluntary Fund office? A. Yes, sir.

Q. And that's in the same building as the Union headquarters are; is that correct, sir? A. In the same building; yes.

Q. Are you still contributing into the Fund? A. No.

Q. How long has it been since you contributed? A. Sometime in '64.

Q. Any reason why you stopped contributing? [1,373]

A. Yes. I had some personal obligations that I figured were more important than the Voluntary Fund.

Q. So you stopped contributing to the Fund? A. Yes.

Q. Did you lose your job as a result of that? A. No, sir.

Q. Any repercussions at all because you stopped contributing to the Fund? A. No, sir.

Mr. London: You may inquire.

Cross-Examination.

By Mr. Riddle:

Q. You paid weekly and regularly until 1964? Some-time in '64? A. Irregularly. Not regularly. I kept no accurate accounting of what I paid into it, but it wasn't a regular basis.

Q. Were you current at the time you quit? A. No, sir.

Q. Did you owe them some at the time you quit? A. Well, I wasn't paid up. I mean I hadn't paid. Well, I don't know what you mean by "owe".

Q. Yes. Well, were you behind on paying? A. I was behind; yes.

[1,374] Q. About how much behind were you? A. I don't know.

Q. You say you had some hardships? A. Yes, sir; family hardships.

Q. Sir? A. Family obligations.

Q. Medical bills? That sort of thing? A. Yes, sir.

Q. Did you normally pay to your foreman or to the steward on the job? A. No, sir.

Q. Who did you pay to? A. Directly to the Fund; at the office.

Q. Now, when you had these expenses, did you tell anybody down there about your hardship? A. No, sir.

Q. Nobody? A. No, sir.

Q. Not your foreman? A. I don't have a foreman.

Q. Are you a foreman? A. Well, I collect foreman's pay, but I don't have any men under me, or anything like that. I do service work.

Q. Oh, I see. You work by yourself? [1,375] A. Yes, sir.

Q. Do you have your own business? A. No, sir.

Q. What is the name of the company you work for?
A. Carrier Corporation.

Q. You mean to tell the Court and jury that you didn't tell anybody down at the Union hall about your hardship?
A. No, I didn't.

Q. Did you attend any meetings after that? A. Yes.

Q. How many? A. Oh, maybe five or six special meetings.

Q. Have you paid anything in since your hardship?
A. No, sir.

Q. Not a bit? A. No, sir.

Q. You say you are getting foreman's pay? A. Yes, sir.

Q. How long have you been with the Carrier Corporation? A. Since I have been with the Local; '51.

Q. Since 1951? A. Yes, sir.

Q. You are a service man? A. Yes, sir.

[1,376] Q. You are not one of these members that get assigned out of the hall on jobs? A. No, sir.

Q. In fact, I guess you have never been assigned out of the hall on a job? A. Just the one time at the Carrier Corporation, and I stayed with them since then.

Q. 1951? A. Yes, sir.

The Court: Any redirect?

Redirect Examination.

By Mr. London:

Q. Is your pay scale any different, Mr. Klinge, than the gentlemen who are assigned to jobs out of the hall?

A. Other than the foremen get.

Q. What is your pay scale, sir? A. \$6.10.

Q. Fifty cents an hour over the basic \$5.60 journeyman's rate? A. Yes, sir.

The Court: Any recross?

Mr. Riddle: No, Your Honor.

The Court: Step down.

(Witness excused.)

[1,377]

JOSEPH YOUNG,

being first duly sworn, testified in behalf of the defendants as follows:

Direct Examination.

By Mr. Randall:

Q. Would you state your full name, please, sir? A. Joseph Francis Young.

Q. And where do you live? A. 324 Newport, Webster Groves, Missouri.

Q. Do you own your home there? A. Yes, sir.

Q. Mr. Young, are you a member of Pipefitters Local 562? A. Yes, sir, I am.

Q. And how long have you been a member of that Local? A. (Referring to notes) I was initiated 5-18-61.

Q. 1961? A. Yes, sir.

Q. Had you worked under the jurisdiction of the Local previous to that time? A. Yes, sir, I had.

Q. And were you a member of some other local? A. I was originally initiated into Local 562 back in 1949. When I went into the Marine Corps during the Korean War, I dropped my book. When I came back home, it was my intention to go to school rather than to work at the trade. Consequently, [1,378] as a result of financial problems though, I was required to work at the trade. I did work at the trade from 1951 until 1961. I have almost continuously worked at the trade since 1951.

Q. I see. In other words, you worked under the jurisdiction of 562 for about ten years before you were readmitted into the Union? A. That is correct.

Q. Now, sir, are you familiar with the Voluntary Fund? A. Yes, sir, I am.

Q. Have you contributed to the Voluntary Fund? A. Yes, sir.

Q. Have you always contributed? A. There have been times when I did not contribute.

Q. Now, when you didn't contribute did anyone say anything to you about that? A. No, sir.

Q. And you continued working? A. Yes, sir.

Q. Now, sir, were you aware of anything the Fund was spending money for, in addition to politics? A. Yes, sir. You are speaking about the Fund as created in 1963, I believe?

Q. Yes. [1,379] A. If I remember right, the Fund was created for political action, charitable works, educational, and there is something else there that I can't think of right now.

Q. All right, sir. And did you sign one of those Voluntary Cards? A. Yes, sir.

Q. And was this stated in the card? A. Yes, sir.

Q. Now, do you know of anything specifically, in your own mind, that the Fund did in these respects, other than

politics? A. As concerns myself, after our eleven-week strike in 1963, I went to the Director of the Voluntary Fund and asked him if the Fund could help me with my tuition at St. Louis University night school. The Fund consequently did help me.

Q. Did the Fund give you the money for the tuition?
A. The Fund gave me \$380 for tuition and books at St. Louis University.

Q. Now, Mr. Young, were your contributions to the Fund voluntary? A. Absolutely.

Mr. Randall: You may inquire.

Cross-Examination.

By Mr. Riddle:

[1,380] Q. Mr. Young, did you know that the Fund paid Mr. Lawrence Callanan \$22,000 a year salary? A. Would you repeat that question?

Q. Do you know that Mr. Lawrence Callanan was paid \$22,000 plus per year salary from the proceeds of the Fund? A. I did not know that.

Q. Sir, this \$380 that they gave you, was this just a grant or a loan? A. No, sir. This was——

Q. Just a grant? A. This was a grant. This was a gift from the Voluntary Fund.

Q. Yes, sir. Sir, you say that the Fund was educational? A. Yes, sir.

Q. Do you know of any reason why educational activities of the Local, the regular memberships, couldn't be conducted by the Union itself.

Mr. London: Object to that. It is calling for a conclusion; irrelevant.

Mr. Riddle: I am asking him if he knows.

The Court: He may answer.

The Witness: Would you restate that question?

Q. (By Mr. Riddle) With respect to educational activities, do you know of anything in the By-Laws of your local Union that [1,381] prohibit it to engage in educational activities? A. I would have to say that I don't think our By-Laws state anything about education one way or the other.

Q. Do you know of any reason why the Union itself couldn't engage in educational activities?

Mr. Daly: I object to this as calling for speculation on the part of the witness.

Mr. Riddle: I am asking him if he knows, Your Honor.

The Court: All right. He may answer.

The Witness: Would you restate that question, please?

Q. (By Mr. Riddle) Do you know of any reason why the Union itself couldn't engage in educational activities? A. I do not know of any reason why they should not.

Q. Or charitable contributions and activities? A. Do I know of any reason why they could not do that?

Q. Out of its regular dues and assessments? A. In view of all the labor legislation that is on the books, I don't feel that I would be qualified to answer that.

Q. Yes, sir. Sir, do you get an accounting of all the money that is spent by your Union? A. By our Union?

Q. Yes, sir. A. Yes, sir. That is required by law & I know that.

Q. Yes, sir. That is required by law. [1,382] A. (Indicating yes.)

Q. Now, then, do you get an accounting out of this so-called Voluntary Fund? A. Do we get some kind of a statement? The Voluntary Fund spends so much for this, and so much for that.

Q. Yes. A. I have never received such a statement.

Q. Do you know that the reason you don't get that is because that, supposedly, is not covered by law? Have you ever thought about that?

Mr. London: Your Honor, I am going to object.

The Court: I will sustain it as to the form of the question.

Mr. Riddle: I have nothing else to ask.

The Court: Any redirect?

Mr. Randall: No, Your Honor.

The Court: Step down.

(Witness excused.)

WILLIAM LE VAN,

being first duly sworn, testified in behalf of the defendants as follows:

Direct Examination.

By Mr. Daly:

[1,383] Q. Would you state your name, please? A. William Le Van.

Q. And where do you reside Mr. Le Van? A. 1335 Hialeah Place, Florissant, Missouri.

Q. And do you own your own home out there? A. Yes, I do.

Q. And are you employed at the present time, Mr. Le Van? A. Yes, I am.

Q. For whom are you employed? A. Bechtold Corporation, at Labadie, Missouri.

Q. And what are you doing in that particular job? A. I am a journeyman pipefitter.

Q. And how long have you been a journeyman pipefitter? A. A little over seven years.

Q. How long have you been out there with Bechtold? A. Approximately a month.

Q. And how many pipefitters are on that job at the present time? A. I would estimate around 120, 130.

Q. Where were you employed before you went out to the power plant at Labadie? A. Gateway Ammunition.

Q. And how long were you down there. A. Approximately four months, I believe.

[1,384] Q. Now, are you presently a member of Local 562? A. Yes, I am.

Q. And how long have you been a member of Local 562? A. Approximately seven years.

Q. And did you work under the jurisdiction of Local 562 prior to the time that you became a member? A. Yes, I did.

Q. All right. Now, are you working as a journeyman, or are you a foreman, or general foreman? A. I am working as a journeyman now.

Q. For \$5.60 journeyman's pay; is that right? A. No. The scale here, I think, is \$5.98.

Q. Is that because it is out of town? A. Yes.

Q. Have you heard of the Voluntary Fund? A. Yes.

Q. Did you sign a Voluntary Fund Contribution card? A. Yes, I did.

Q. Do you presently contribute to the Fund? A. Yes.

Q. Did you contribute to the Voluntary Fund prior to the time that you were a member of Local 562? A. Yes, I did.

Q. All right. Now, are the contributions you are making [1,385] now voluntary? A. Yes, they are.

Q. And they are based on a rate of fifty cents a day; is that correct? A. That's correct:

Q. And I believe if there is overtime, then it is higher than that? A. Yes, sir.

Q. Prior to the time that you were a member of Local 562, you indicated you also contributed; is that right? A. Yes.

Q. Were those contributions voluntary? A. Yes, they were.

Q. Has anyone told you, since you were a member, that you had to make these contributions? A. Never.

Q. Did anyone tell you, prior to the time that you were a member, that you had to make these contributions? A. No.

Q. Now, do you know what the contributions you make are used for? A. Yes, I do.

Q. What is your understanding of what they are used for? A. Well, first, to try to elect people that are favorable [1,386] for labor; for charity, such as United Fund, and, I believe, not too long ago they had a TV telethon which the Voluntary Fund contributed to also; also, defense fund. Let's say, see, at one time I was a steward on a job, and say I had to defend our right to our work, and I ended up getting in a fistcuff match with somebody.

Q. You are just assuming this? A. Yes.

Q. That would be your understanding? A. I would—

Q. When you contribute this money, is it your understanding that this is what it is going to be used for? A. Yes.

Q. And do you make this contribution voluntarily? A. Yes.

Mr. Daly: I have no further questions.

Cross-Examination.

By Mr. Riddle:

Q. You haven't missed any payments? A. Not to my knowledge.

Q. And they have all been voluntary? A. Yes, sir.

Q. You paid all your dues and assessments? A. Yes, sir. That is, three and three-quarters per cent. [1,387] of my gross is assessments and dues.

Q. And that's all been voluntary? A. No, sir. That's not voluntary. The dues and assessments are separate from the Voluntary Fund.

Q. You don't pay the dues and assessments voluntarily? A. I pay them—they are deducted from my check on the checkoff system.

Q. You authorize it, don't you? A. Yes, I voted to, but this is something the Voluntary Fund—I give voluntarily because I want to, because as far as I am concerned, this is to my benefit in getting people in the legislature to vote for labor.

Q. Why do you pay your regular dues and assessments? A. To keep my Union going.

Q. For your own benefit? A. Yes.

Q. And you pay that voluntarily, don't you? A. Well, yes, sir. We voted on it at a regular Union meeting, and this is—

Q. Yes, sir. And the payment into this Fund was voted on at a regular Union meeting too, wasn't it? A. No, it wasn't.

Q. Was it voted on? A. Yes, sir, it was.

[1,388] Q. At a meeting? A. Yes, sir.

Q. Was anybody there other than members of 562? A. Yes, sir.

Q. Who? A. Any U. A. member who is working in Local 562's jurisdiction.

Q. Was there any time that that was voted on? A. Yes, sir.

Q. And you voted for it, I guess? A. Yes, sir, I did.

Q. At that meeting, was there any explanation made to you as to why this Fund should be separate and distinct from the regular Union operation? A. Yes, sir. I believe that was on advice of counsel, due to the fact, I think, it is against the federal law to use regular union money, because actually Voluntary Fund is a separate entity from the Union, although 562 members are in great majority of the members of the Voluntary Fund.

Q. Yes, sir: Well, now, is there anything that this Fund can do that your regular Union can't do? A. As I say, I believe it is against federal law, and I believe that is why this case is here right now, that a union or a large corporation may not contribute to the campaign funds [1,389] of any political office seeker.

Q. Yes. And this was set up in order to get around that law?

Mr. London: Your Honor, I am going to object to the form of these questions. Now, it is asking for a conclusion on the part of this witness.

The Court: This is cross-examination. He may answer. Objection will be overruled.

Q. (By Mr. Riddle) Is this your understanding, that was set up to get around that law? A. No, I don't believe it was set up to get around the law. I believe it was set up to help us, and I think this is actually all it is doing.

Q. Sir, you are familiar with your By-Laws, I guess? A. Not as good as I should be.

Q. Well, let me ask you if you are familiar with Section 2.05, which says:

"We recognize that the interests of this labor organization are not limited to matters of organization and col-

lective bargaining, or even to those matters and things additionally set out in Sections 2.01, 2.02, 2.03 and 2.04, but extend to all types of economic, social and political activities, including, but not limited to, activities of a cultural, civic, industrial growth, legislative, political, [1,390] fraternal, educational, charitable, welfare and social nature.”

Are you familiar with that provision in your By-Laws?

A. I am now; yes, sir.

Q. Well, now, sir, when it was being explained to you the purpose for setting up this fund, was it explained to you why this couldn't be done under your own Union?

A. For the simple reason it would be in violation of the law.

Q. For one purpose, and one purpose only, and that was to contribute to a federal candidate; is that what you are told? A. I don't recall exactly what I was told, because I don't have a law degree, and, therefore, I can't—

Q. I am asking you whether you were told that it was set up for the purpose of using money to pay for federal candidates? A. I imagine so.

Q. Yes, sir. Because all of these other activities that appear on this card, the Union could do properly, legitimately, without any problems so far as the By-Laws showed?

Mr. London: May we approach the bench, Your Honor?

(Thereupon the following colloquy ensued among the Court and counsel, at the bench, out of hearing of the jury:)

Mr. London: I would like to object to this line of questioning. Mr. Riddle has touched upon the matters. It is my understanding that the defendants herein are charged [1,391] with violation of a law that prohibits unions from contributing money to candidates in federal elections.

Now, whether or not they can do charitable, legislative, or other work within the framework of their own union, or whether they do it through a voluntary fund will certainly be totally irrelevant and immaterial to any of the issues in this cause, and I feel that this line of questioning is totally outside of the scope of this indictment, and that it is prejudicial to the interests of the defendants in this case.

I would, therefore, object to this line of questioning, and ask that it be stricken and the jury instructed to disregard it, and a mistrial be declared.

Mr. Daly: Further, he is calling for a legal conclusion from this witness, whether legally they can do these things from the By-Laws. He is not qualified as an expert, he can't give a legal conclusion.

Mr. Riddle: Your Honor, it is cross-examination. This witness said he knows what the Fund was for. He paid into it. He attended some meetings. He was told at these meetings that the purpose of this Fund was to make money available for the election of federal candidates.

Now, the cards that are in evidence, which he pays under, shows that that's for all the other activities that are included in the Constitution and By-Laws that a union can do [1,392] legitimately, can do very properly, and can do in a way that makes them accountable to the membership and to the Department of Labor.

Now, the vital issue in this case is whether or not these defendants entered into a conspiracy for the purpose of violating the federal laws by setting up this bogus fund to receive money in for which they didn't have to account, and for which they could use in payment for federal candidates indirectly what they couldn't specifically do directly, and I think these questions are very relevant to that point.

Mr. London: If I might comment for a moment. Whatever Mr. Riddle's theory is, the point still remains that

whatever was done with any of the money, other than the allegation that he claims that this was a violation of Section 610, or a conspiracy to violate Section 610, whatever else may have been done is not a violation of the federal law. It has no place in the trial.

The Court: Well, the charge is a conspiracy to violate Section 610, and whatever can be elicited to prove the conspiracy is admissible. Now, that goes to that part of it.

Now, Mr. Daly has indicated that he thinks that you are attempting to elicit legal conclusions from this witness.

Mr. Riddle: That is not my intent, most certainly not.

The Court: Well, I must say that I thought some of [1,393] the questions at least headed in that direction. I am not going to preclude you from asking questions in that vein, but I did not think that you should ask him questions that require him to make legal conclusions. All right.

Now, to the extent that—Did you ask for a mistrial?

Mr. London: Yes.

The Court: That will be denied, and the attorney for the Government is directed to direct his questions in such a manner that they do not call for legal conclusions.

Mr. Riddle: All right.

Mr. London: Thank you.

(Thereupon, the trial was resumed before the jury as follows:)

Q. (By Mr. Riddle) Sir, at this meeting which you are referring to, was an explanation made to you and the others as to why a separate fund should be set up for educational, legislative, charity— A. I really don't recall the explanation that was given. They outlined what it was supposed to be used for, and we more or less had

a chance to either say yea, nay, or whether we wanted it, didn't want it, until it went to a vote.

Q. At that time, were you a member of 562? A. Yes, I was.

[1,394] Q. You became a member of 562 when? A. Approximately seven years ago.

Q. Seven years ago. You have never seen an accounting of any of the money that went into this Fund? A. No, I don't believe so.

Q. You don't know what's happened to it? A. Oh, yes, I know where quite a bit of it has gone; yes. I believe the Voluntary Fund contributed to a hospital in Cape Girardeau.

Q. On that, as far as you know——

Mr. London: Your Honor, we object to that.

Mr. Riddle: I will withdraw that.

The Court: I don't know—both of you are mumbling. If you have something to say, I wish you'd say it distinctly so that the reporter can get it and I can understand it, as well as the jury. If you are withdrawing the question all right. Is that it?

Mr. Riddle: We will withdraw that question, Your Honor.

The Court: All right.

Q. (By Mr. Riddle) Sir, were you aware that a salary was paid to Mr. Lawrence Callanan at \$22,000 a year out of this Fund? A. I didn't know the exact amount, but I knew as Director [1,395] he received some remuneration, because there was quite a few headaches.

Q. Yes, sir. Sir, did you know that \$150,000 was spent out of that Fund for a farm up in Pike County? A. I beg to disagree with you also there because I think the farm you are referring to is the recreation area for the

pipefitters, and we also have one right off of the Missouri Bottoms Road, and I believe both of those were paid for out of our Welfare Fund, not out of the Voluntary Fund.

Q. You believe that? A. That is to the best of my knowledge.

Q. Is this what you have been told? A. Yes, sir.

Q. Sir, it is your understanding that the farms up there were bought out of the regular Union Welfare Fund?

A. Yes, sir. As far as I know they were.

Q. Did you ever hear of Pipefitters Voluntary Fund, Inc.? A. No, sir, I never have heard of it.

Q. Pipefitters Voluntary Fund, Incorporated? A. No, I haven't.

(Thereupon Government's Exhibits Nos. 217 and 218 were marked by the reporter for the purpose of identification.)

Q. I will show you what's been marked Government's Exhibits 217 and 218. See if you can identify them as being [1,396] copies of checks drawn on the Pipefitters Voluntary Political Fund? A. I would say they were.

Q. They total what? A. It would be \$125,000.

Q. Who are they payable to? A. Pipefitters Voluntary Fund, Incorporated.

Q. And you never heard of that transaction? A. No, I hadn't.

Mr. Riddle: I have nothing further from this witness.

Mr. Daly: No redirect, Your Honor.

The Court: I beg your pardon?

Mr. Daly: No redirect.

The Court: You may step down.

(Witness excused.)

RAYMOND W. JENKINS,

being first duly sworn, testified in behalf of the defendants as follows:

Direct Examination.

By Mr. London:

Q. State your name, sir. A. Raymond Jenkins.

Q. Where do you live, Mr. Jenkins? A. 7071 Mardel Avenue.

[1,397] Q. Are you a member of Pipefitters Local 562? A. That's right.

Q. How long have you been a member? A. Somewhere in the neighborhood of fifteen years, sixteen, something like that.

Q. Mr. Jenkins, are you familiar with the Voluntary Fund? A. That's right.

Q. Did you sign a card for the Voluntary Fund? A. I did.

Q. Do you recall about when you signed that card, sir? A. No, I can't recall the exact date; somewhere in the neighborhood of '60 or '61, I would say.

Q. After you signed the card, sir, did you make contributions into the Voluntary Fund? A. I did.

Q. Are you making contributions into the Voluntary Fund at the present time? A. I am.

Q. Have you made contributions into the Fund continuously from the time that you signed the card? A. No. There was a period of about one year that I didn't.

Q. Did you work during that year? A. I did.

[1,398] Q. Regularly? A. Very regularly. I was a foreman all the time.

Q. You are a foreman? A. That's right.

The Court: Would you speak into that microphone, please, Mr. Jenkins?

The Witness: I was foreman all the time.

Q. (By Mr. London) And you lost no work as a result of losing a year of contributions; is that correct? A. That's right.

Mr. London: You may inquire.

Cross-Examination

By Mr. Riddle:

Q. Why did you not pay that one year? A. It was a question that the doctor was wanting to retire me on a case of a heart disease I had. And some of the men brought the subject up what would happen if you didn't pay, and I said, "I will find out," so for one year I didn't pay.

Q. Some of your men brought up the question? A. That's right. Some of the men that was working for me.

Q. Did they ask you, wonder what would happen if you didn't pay? A. That's right.

Q. Did you have a severe illness? [1,399] A. I have had three heart attacks, but I'm still going.

Q. When you decided not to pay, did you talk to someone down at the hall about it? A. No.

Q. Did you talk to anybody about it, other than the men on your job? A. No.

Q. Did the people down at the hall know of your serious illness? A. Well, I suppose they did. They pay hospital and doctor bills for me.

Q. And you dropped off your payments for about a year? A. That's right.

Q. And then resumed? A. That's right.

Q. Are you current now? A. Sir!

Q. Are you current on your payments now? A. That's right.

Mr. Riddle: I have nothing further.

Redirect Examination.

By Mr. London:

Q. Mr. Jenkins, when you say you are current, did you make up that year that you missed? [1,400] A. No, I never did make up that year.

Q. So that year has never been paid? A. That's right. That year has never been paid.

Mr. London: That is all.

The Court: Call your next witness.

[Witness excused.]

ROBERT BRUNE,

being first duly sworn, testified in behalf of the defendants as follows:

Direct Examination.

By Mr. Randall:

Q. Mr. Brune, would you state your full name, please, sir? A. Robert Brune.

Q. Sir, where do you live? A. I live in Cape Girardeau.

Q. And are you a member of Cape Girardeau Local 318? A. That's right.

Q. How long have you been a member of that Local, sir? A. Since '46.

Q. And have you worked under the jurisdiction of Local 562? A. Several times.

Q. Well, how long have you worked under their jurisdiction? Please tell us when you have worked under their

jurisdiction. A. Well, I worked from '48. One year off and on, going [1,401] and coming, see.

Q. You have worked off and on since 1948? A. That's correct.

Q. Have you worked under the jurisdiction of any other local during that period? A. Yes.

Q. What other local? A. Kansas City.

Q. Kansas City? A. Yes.

Q. About how much of your time, sir, have you worked under the jurisdiction of 562? A. Well, I say half of the time.

Q. About half of the time? A. (Indicating yes.)

Q. Now, Mr. Brune, do you recall—first of all, I'll ask you this: Are you familiar with Pipefitters Local 562 Voluntary Fund? A. I sure am.

Q. And have you contributed to that Voluntary Fund? A. I sure have.

Q. Have you always contributed to it? A. Since it come, yes.

Q. Yes. And did you sign a Contribution Agreement card? [1,402] A. I sure did.

Q. And have your contributions been voluntary? A. They sure have.

Q. Now, sir, do you remember a meeting of the Fund in 1963? A. I was invited to it, but I never went.

Q. You were invited? A. Yes, sir.

Q. Where were you working at that time? A. Pea Ridge.

Q. And were there other members of Local 318 working on that job? A. There was.

Q. Were all those people invited to this meeting? A. I don't know that.

Q. How were you invited, sir? A. I think the foreman invited me that time.

Q. I see. And you did not attend the meeting? A. I didn't attend that meeting.

Q. Now, following this meeting that we are speaking of, did you then sign a Voluntary Agreement Contribution card? A. I did.

Q. Now, during the years that you have worked under 562's jurisdiction, how have you made your contributions, and to whom [1,403] have you made them? A. Well, I made it to my steward.

Q. Have you always given them to the steward? A. No, I haven't. I give it to a lady in our office down home.

Q. You took them into your own local's office and gave them to a lady? A. That's right.

Q. Do you know what her name was? A. Miss Sarff.

Q. And is that the only way that you have made them? Have you ever mailed any of them in? A. No, I haven't.

Mr. Randall: I see. You may inquire.

Cross-Examination.

By Mr. Riddle:

Q. Sir, are you working on any 562 jobs now? A. I am.

Q. Are you still paying \$2.00 a day, or \$10.00 a—
A. I gave them \$2.00 a day. That is what I signed up for.

Q. —\$10.00 a week? A. That's right.

Q. Sir, you also pay your dues down at Cape Girardeau? A. I do.

[1,404] Q. What are you working on now? A. I am working on an order plant at Jackson, Missouri.

Q. Jackson? A. That's right.

Q. How far do you live from Jackson? A. Seven miles.

Q. Seven miles? A. That's right.

Q. Are there some people working on this job at Jackson who are members of 562? A. Yes, sir.

Q. What did they pay to this Fund? A. I don't know.

Q. You don't have the slightest idea? A. No.

Q. Nobody ever told you? A. I never did ask them.

Q. You never did ask them? A. No, never did say anything about it. They never did tell me, and I didn't ask them. Didn't figure it was any of my business.

Q. Who told you that you were to pay \$10.00 a week? A. I signed up for that.

Q. Who asked you to sign up for it? [1,405] A. Well, that was your—the meetings there, they said for that. I volunteered myself.

Q. Did you sign up before you started to work on other jobs? A. I signed up when I was working on a job when they make agreements.

Q. Was this before you got paid? A. Before I got paid?

Q. Yes. Did you sign a card before you got paid? A. Yes; when I went on the job.

Q. Yes, sir. How much do you pay into your Cape local? A. I pay a dollar a day. That is an assessment, and five dollars a month. That is an assessment there though; Cape local.

Q. You just voluntarily pay this \$10.00? A. That's right.

Q. What do they tell you it is used for? A. Used for, well, welfare and stuff like that; could be used for—

Q. Anything the Union wants to use it for? A. No; for the welfare of the men, of the people.

Q. Anyone ever tell you why you were requested to contribute more into the Fund than the local people did? A. No. It was \$2.00. We get as much out of it as they [1,406] were. I am making more money in the St. Louis Local than I am in the Cape Local.

Q. Is that the reason you are willing to pay the \$10.00 a week? A. I see where it is they give money to our hos-

pital down there at Cape, both hospitals. I think it is for a good reason myself.

Mr. Riddle: I have nothing else.

The Court: Any redirect?

Mr. Randall: No, Your Honor.

The Court: Step down.

(Witness excused.)

BEN G. MILLER,

being first duly sworn, testified in behalf of the defendants as follows:

Direct Examination.

By Mr. Daly:

Q. State your name, please. Ben G. Miller.

Q. And where do you reside, Mr. Miller? A. Festus, Missouri.

Q. And are you employed at this time, sir? A. No, sir.

Q. What is your status at this time? [1,407] A. I am retired.

Q. And when did you retire? A. July, this last year.

Q. July of 1968? A. Yes.

Q. When you were working, what was your trade or your occupation? A. Pipefitter.

Q. And as such, were you a member of Pipefitters Local 562? A. Yes.

Q. How long have you been a member of that local, Mr. Miller? A. Twenty-six years.

Q. Now, could you give the jury some idea as to what job you worked on while you were a member of that local? A. Well, I worked on Weldon Springs, and Union Electric Powerhouse, and a lot of small jobs.

Q. All right. Now, when you worked and were a member of the Local, did you hold any jobs as foreman, or area foreman, or such as that? A. Yes, sometimes I was foreman.

Q. All right. Now, when you were a member of the Local, before you retired, do you recall the Voluntary Fund, Mr. Miller? A. Before?

[1,408] Q. Yes. A. Sure.

Q. And did you sign a card, a Voluntary Contribution card? A. Yes.

Q. And when you were a member, did you donate to that Fund? A. Yes.

Q. Did you contribute to the Fund? A. Yes.

Q. Did you contribute all the time that you were a member? A. Yes, I always contributed.

Q. You are not contributing anything to the Fund at this time? A. No.

Q. And you are a retired member of 562? A. That's right.

Q. You are not working on any jobs or anything? A. No, sir.

Q. When you were a foreman or a steward, did you ever collect any of the money for the Fund, Mr. Miller? A. No, I didn't.

Q. Whom did you generally pay? A. Well, I personally, I generally paid at the office.

Q. Downtown. You didn't give it to a steward on the job? [1,490] You took it in yourself? A. As a rule, yes, because I was working on a small job most of the time.

Q. Was that donation voluntary, Mr.— A. Yes.

Mr. Daly: Your witness, Mr. Riddle.

Cross-Examination.

By Mr. Riddle:

Q. You retired in July of this year? A. Yes.

Q. You made your last payment the last week you worked, I guess? A. That, I don't remember.

Q. You paid into this Fund up until the time you retired? A. Yes.

Q. You paid the amount that was fixed, fifty cents a day, or a dollar a day? Whatever it was, you paid it?

A. Yes. Whatever the contribution was supposed to be, that's what I paid.

Q. Whatever they decided that the contribution ought to be, why you paid it? A. No. No. We voted on that at the meetings. What we were——

Q. At a union meeting? A. No. It was a special meeting.

Q. Of the Union? A. No, it wasn't a regular union meeting; no.

Mr. Riddle: I have nothing further to ask this man.

The Court: All right. Anything else?

Mr. Daly: No redirect, Your Honor.

The Court: All right. Step down.

(Witness excused.)

JAMES T. MANNING,

being first duly sworn, testified in behalf of the defendants as follows:

Direct Examination.

By Mr. London:

Q. State your name, sir. A. James Manning.

Q. Where do you live, Mr. Manning? A. I live in Affton, Missouri.

Q. And what is your occupation, sir? A. Journeyman pipefitter.

Q. Where are you working at the present time? A. The Weldon Springs Atomic Energy Commission Plant.

Q. Are you a member of Pipefitters Local 562? A. I am.

Q. For how long? [1,411] A. Eight years.

Q. Are you familiar with the Voluntary Fund, sir? A. Yes, I am.

Q. Did you sign a Voluntary Fund card? A. Yes.

Q. Do you contribute to the Fund? A. Yes, I do.

Q. Do you remember contributing regularly? A. Yes.

Q. Let me ask you, Mr. Manning, have you ever attended any meetings of the Fund? A. Yes, I have.

Q. Is that the same as a union meeting? A. No.

Mr. London: You may inquire.

Cross-Examination.

By Mr. Riddle:

Q. How does it differ from the union meeting? A. Well, they are usually called on separate dates.

Q. By the same people? A. How do you mean?

Q. Well, who calls these meetings of the Fund? A. Well, we'll receive in the mail, usually, a notification of a meeting to be at a certain date, and it is from the [1,412] Fund.

Q. Have you been a member of this Fund for what, eight years? A. No.

Q. Since '63? A. Yes.

Q. Do you have any evidence that you are a member of that Fund? A. No. I have check stubs that possibly I could get hold of.

Q. You don't have a membership card? A. No.

Q. You don't have any receipts for any money you ever paid in? A. Cancelled checks.

Q. Cancelled checks? A. Yes.

Q. It doesn't have any constitution or minutes, or by-laws, this Fund, does it? A. Well, when we have meetings, we are told what is going on.

Q. You are told all that's going on? A. As much as I care to know.

Q. How much do you care to know? [1,413] A. Well, we are told about who we are supporting.

Q. Sir, do you care to know how a million and a half dollars has been spent? A. Certainly.

Q. Have you been told that? A. No. I haven't asked.

Q. Does that mean you don't care to know, or you just haven't gotten around to asking? A. That means I haven't asked.

Q. But you do care to know? A. Yes, I suppose so.

Q. Nobody has ever told you? A. No. Because I haven't asked, probably.

Q. Do you know how much money has been paid into that Fund? A. By myself?

Q. Yes. No. By all of you together? All of the members of the Fund? A. No, because I don't know how many members there are and how much they pay or contribute.

Q. Sir, would you be surprised to know that at least a million and a half dollars has been paid into that Fund?

Mr. Daly: Your Honor, I will object to that. I don't think it is of any interest to the jury whether or not [1,414] they would be surprised or not.

Mr. Nangle: Your Honor, may I make an objection?

The Court: You may make an objection.

Mr. Nangle: Your Honor, it is contrary to the Government's own exhibits, which clearly list \$1,230,986.

Mr. Riddle: You are right, but that does not include all of 1968, or '67.

The Court: I think that the inclusion of the words, "Would you be surprised," might be construed to be argumentative. For that reason I would sustain the objection as to the form. Otherwise it would be overruled.

Q. (By Mr. Riddle) Do you know what salaries are paid out of this Fund? A. No.

Q. Do you know what Mr. Callanan's salary out of the Fund has been? A. No, I don't.

Q. Do you know how much has been spent for political activities on the federal level? A. I couldn't say offhand, but from what I read in the paper, it is considerable.

Q. That is the only information you know about that is what you read in the papers? About how much has been spent? A. Yes. I think so.

[1,415] Mr. Riddle: I have nothing further.

The Court: Any redirect?

Redirect Examination.

By Mr. London:

Q. Do you give to the United Fund? A. No, I don't.

Q. Do you give to any charities? A. Church.

Q. Do you get a breakdown from the church how that money is spent, item by item? A. No.

Q. Do you ask for it? A. No, I don't.

Mr. London: That's all.

Recross Examination.

By Mr. Riddle:

Q. Sir, you mean to tell me you don't get any type of financial statement from your church? A. No. I just

Q. Ever? A. I just go to church and drop a buck or two in the basket when it comes by. I don't pay them by check.

Q. Do you pay them precisely the same amount each week? A. No.

[1,416] Q. You pay them whatever you just voluntarily want to pay them each week? A. Right.

Mr. Riddle: Nothing else.

The Court: Anything else?

Mr. London: That's all, Your Honor.

The Court: You may be excused.

(Witness excused.)

The Court: We will recess for lunch until a quarter to 2:00. Members of the Jury, bear in mind the admonition I have given you heretofore. Don't read anything. Don't discuss it. Don't form any opinions. Don't read the papers. Quarter to 2:00.

(Thereupon at 12:30 p. m., court was in recess for lunch until 2:00 p.m.)

Friday, September 13, 1968.

Afternoon Session.

ALLEN DEWEESE,

being first duly sworn, testified in behalf of the defendants as follows:

Direct Examination.

By Mr. Randall:

Q. Mr. Deweese, would you state your full name, please?

A. Allen Deweese.

[1,417] Q. Where do you live, sir? A. At Jackson, Missouri.

Q. Are you a member of Cape Girardeau Local 318? A. Yes, sir.

Q. And have you ever worked under the jurisdiction of Local 562? A. Yes, sir.

Q. How long have you worked under—what period of time? A. I first started in about 1945.

Q. And have you worked under their jurisdiction off and on since 1945? A. Yes, sir.

Q. About how much of your time have you been under the jurisdiction of— A. I would say about, oh, about a third of the time.

Q. About a third of the time. Now, back in May, 1967, were you working on a 562 job? A. Yes, sir.

Q. And what was your position? A. General foreman.

Q. You were the general foreman for a 562 job? A. Yes, sir.

Q. Are you familiar with the Pipefitters Voluntary Fund? A. Yes, sir.

[1,418] Q. Did you—Let me ask you this: Have you ever attended any meetings of the Voluntary Fund? A. Yes, sir.

Q. Did you make collections for the Voluntary Fund when you were general foreman? A. Yes, sir.

Q. What did you do with those collections, sir? A. I turned them in to the secretary of Local 318 union in Cape Girardeau.

Q. What is the name of that person? A. Miss Sarff.

Q. Did you sign a Voluntary Card? A. Yes, sir.

Q. Have you, yourself, contributed? A. Yes, sir.

Q. Have you always contributed? A. Yes, sir.

Q. Have your contributions been voluntary? A. Yes, sir.

Mr. Randall: You may inquire.

Cross-Examination.

By Mr. Riddle:

Q. How long have you been a general foreman, sir?
A. I was general foreman for that—I was only general [1,419] foreman for that one job.

Q. All other work you are just a journeyman foreman?
A. Yes, sir.

Q. What job are you working on now? A. At the high rise college.

Q. That is a dormitory at State College down at Cape?
A. Yes, sir.

Q. Now, is that a 562 job? A. Yes, sir.

Q. Are the 562 people and 318 people both working on that job? A. Yes, sir.

Q. What does it cost you a day to work on that job, sir?

Mr. London: I object to the form of that question, Your Honor.

The Court: He can answer it if he can. The objection will be overruled.

Q. (By Mr. Riddle) What does it cost you a day to work on that job? A. I donate \$2.00 a day.

Q. Is it your testimony that it costs you a donation of \$2.00 a day? A. Well, I don't know if you call it a cost. I give it to them voluntary.

[1,420] Q. Now, what does it cost a member of 562 to work on that job a day? A. I think 50 cents.

Q. Are there people on this job from Cape Girardeau working side by side with people from St. Louis? A. Yes, sir.

Q. Doing the same work? A. Yes, sir.

Q. Being paid the identical sums of money for their labors? A. Yes, sir.

Q. And the people from Cape who are members of 318 pay \$2.00 a day? A. Yes, sir.

Q. And people from St. Louis, or members of the St. Louis union, only pay 50 cents a day? A. Yes, sir.

Q. Sir, you say you make the collections that you have picked up, you took them to the Union hall there in Cape Girardeau, Missouri? A. Yes, sir.

Q. Is this what you fellows, or the amount that you pay in here into the St. Louis Fund, is that referred to by you and your fellow 318 members as doby money? [1,421] A. Well, we call it Voluntary Fund.

Q. Is it referred to also as doby money? A. A doby is slang for Voluntary Fund, or whatever.

Q. Yes. A. You hear that occasionally.

Q. Yes, sir. You say doby is slang for Voluntary Fund, or whatever. You mean—by “whatever” what do you mean? A. Well, I would say in—I think in your dues, or whatever you pay.

Q. Whatever it costs you to work, dues, or whatever, what have you? A. That's what I think.

Q. That is what people refer to as dobies? A. That is what I think.

Q. Well, it is commonly used among the people down there? A. I have heard it.

Q. You say you have attended a meeting here in St. Louis? A. Yes, sir.

Q. When? A. I believe it was in May.

Q. Of this year? A. Yes, sir.

Q. Is that the only meeting you have ever attended here in St. Louis? [1,422] A. Yes, sir.

Q. Where was that held? A. I believe the Electricians hall.

Q. Who presided at that meeting? A. Well, there were several speakers, and, I believe, my opinion, Mr. Callanan.

Q. Mr. Callanan. Were you given a notice of the meeting? A. General foreman.

Q. Told you about the meeting? A. Yes, sir.

Q. Anybody else in Cape come up with you? A. Yes, sir.

Q. Do you remember what was discussed at the meeting? A. Well, there was a vote on the Voluntary Fund.

Q. Did you vote on it? A. Yes, sir.

Q. Secret ballot? A. Yes, sir.

Q. How many other boys came up from Cape on it? A. I don't know exactly. There were several.

Q. At the same time you collect from the St. Louis members at 50 cents a day, you pay— A. I never collected—let's see. I had one for a short while, and I didn't collect from him, 562, and he was a welder. [1,423] And he was transferred, and then I got another one. They got another one, and they sent theirs in theirselves, if I remember right.

Q. Sir, did you ever bring to the attention of your representative down at Cape the disparity in your payments into this Fund, as compared to what the St. Louis members paid? A. No, sir.

Q. Did you ever claim to him that you were paying two bucks a day, and they were just paying fifty cents? A. No, sir. I knew.

Q. You knew before you took the job that that's what it was, didn't you? A. Sure did. I knew why.

Q. Why there was a difference? A. Um hum.

Q. What is the difference? A. Their difference is that they have, they pay their dues or whatever. It amounted to, was more than what ours did, was \$2.00.

Q. In other words, what their people paid into their local was more than what you people paid into your local?

A. Paid into their local.

Q. Yes. A. 562 local.

[1,424] Q. And this \$2.00 you paid in was for the purpose of equalizing that? A. What I am trying to say is that our Voluntary Fund was less than what they had to pay in with their dues and their Voluntary Fund. In other words, they made more than we did with our two dollars.

Q. And the increase in yours over there was to equalize that? A. Well, I don't know about that.

Q. Well, was this the explanation given to you? A. No.

Q. You just know that? A. Well, I know that; yes. I mean it wasn't explained to me in that way.

Mr. Riddle: I have nothing further.

Redirect Examination.

By Mr. Randall:

Q. Sir, when you came up to this meeting in May, how did you get up to St. Louis? A. Me and a friend, buddy, drove.

Q. Drove up in a car? A. Yes.

Mr. Randall: That's all.

The Court: Anything else, Mr. Riddle?

[1,425] Mr. Riddle: I have nothing else.

The Court: You may be excused.

(Witness excused.)

KENNETH CUNNINGHAM,

being first duly sworn, testified in behalf of the defendants as follows:

Direct Examination.

By Mr. Daly:

Q. Would you state your name, please? A. Kenneth Cunningham.

Q. And where do you reside, Mr. Cunningham? A. In Cape Girardeau.

Q. And what is your business or occupation? A. I'm a plumber pipefitter.

Q. A plumber pipefitter? A. Yes, sir.

Q. And are you a member of a union? A. Yes, sir.

Q. What union do you belong to? A. Local 318.

Q. And where is that located? A. In Cape.

Q. Now, in the past have you worked under the jurisdiction of Local 562? [1,426] A. Yes, I have.

Q. On how many occasions have you worked under 562's jurisdiction? A. I don't know; several.

Q. More than once? A. Yes, sir.

Q. When is the last time you worked on a job that was under the jurisdiction of Local 562? A. March, I think it was. February or March.

Q. February or March of this year. Now, are you familiar with Voluntary Fund Local 562 has? A. Yes, sir.

Q. And those times that you were working under Local 562, did you contribute to that Voluntary Fund? A. Yes, sir.

Q. How much did you contribute? A. Two dollars per day.

Q. Two dollars per day. Now, when you were working under Local 562; whose rate of pay would you draw? A. 562's rate.

Q. What is the 318 rate of pay for a plumber pipefitter?
A. \$5.91.

Q. That is 318? A. Yes, sir.

[1,427] Q. What is 562? A. \$6.16, I think it is.

Q. And does the Local 318 have a pension plan? A. No, sir, we haven't.

Q. Do you get anything in the way of fringe benefits on your pension plan in 318? A. The only fringe benefits we have is health and welfare fund.

Q. How much is that? A. All together it is 27 cents.

Q. Twenty-seven cents per hour? A. Yes, sir.

Q. Now, when you work under 562's jurisdiction, do you qualify under this pension plan? A. Yes, sir.

Q. And what is the rate of pay on that? Do you know?
A. About two dollars seventeen, I think.

Q. So every hour you work under 562's jurisdiction, you are getting \$2.17 put in for you; is that right? A. Yes, sir.

Q. Whereas when you are working under 318, there would be a 20-cent contribution? A. Twenty-seven.

Q. Over a week's time, what is the average difference in [1,428] your paycheck between working under the jurisdiction of 562 and working under the jurisdiction of your local at 318? A. Now, I think it is about \$30.00.

Q. About \$30.00 a week. So if you can find a job under 562's jurisdiction, you could take home about \$30.00 more per week; is that right? A. Yes, sir.

Q. And you indicated that you have paid into the Voluntary Fund; is this correct? A. Yes, sir.

Q. At the rate of \$2.00 a day. Did you pay that voluntarily, Mr. Cunningham? A. Yes, sir.

Mr. Daly: Your Witness, Mr. Riddle.

Cross-Examination.

By Mr. Riddle:

Q. You say under a St. Louis job you could take home \$30.00 more per week? A. Approximately.

Q. Plus the \$20.00 that you pay into this Fund here.

Mr. Daly: I don't believe there is any evidence that he paid \$20.00 into the Fund.

Q. (By Mr. Riddle) Do you pay \$10.00 a week into the Fund? [1,429] A. I pay \$2.00 per day.

Q. So it is \$30.00 a week you would get more out of the St. Louis job? A. (Indicating yes.)

Q. And you pay \$10.00 into the Fund each week? A. Yes, sir.

Q. Sir, does that \$10.00 a week figure out it costs you \$2.00 a day to work on their job? A. No, sir. We have approximately \$78.00 in fringe benefits per week that we don't have in our local.

Q. All right, sir. But this \$2.00 a day that you pay in to them, now you consider that a cost of working on that job? A. No, sir.

Q. It is a cost to you, isn't it? A. No, sir.

Q. You pay it, don't you? A. It is a donation.

Q. You don't have the money when you go home, do you? A. No, sir.

Q. Sir, you know what a doby is, don't you? A. I've heard the term.

Q. What is a doby supposed to be? What is a doby by your understanding? [1,430] A. I have just heard the term, I don't know what it means.

Q. I see. Your fellows down there use it? A. Not so much in our Local.

Q. All right, sir. Do you know what the boys from St. Louis pay on the jobs into this Fund? A. I haven't any idea.

Q. You don't have the slightest idea? A. No.

Mr. Riddle: I have nothing further.

The Court: All right. Step down.

(Witness excused.)

ARTHUR GERMER,

being first duly sworn, testified in behalf of the defendants as follows:

Direct Examination.

By Mr. London: (

Q. State your name, sir. A. Arthur Germer.

Q. Where do you live, Mr. Germer? A. 1523 Melrose.

Q. And are you employed, sir? A. No, sir.

Q. You are retired? [1,431] A. Yes, sir.

Q. What was your occupation, sir, before you retired?
A. Steamfitter.

Q. Were you a member of Pipefitters Local 562? A. Yes, sir.

Q. While you were a member, sir, were you familiar with the Voluntary Fund? A. Yes.

Q. Did you sign a Voluntary Fund card? A. Yes.

Q. Did you make contributions to the Fund? A. Did I? Not all the time.

Q. You contributed sometimes, and not at other times? A. Yes, sir.

Q. Did you work at the times you were contributing? A. Yes.

Q. Did you work at the times you weren't contributing? A. Yes, sir.

Q. Any distinction in your work as to whether or not you contributed? A. No.

Q. You worked both times? A. Yes.

Q. Did you ever attend any of the Fund meetings, [1,432] Mr. Gerner? A. I attended one, yes, I think, that I know of.

Mr. London: That is all. You may inquire.

Cross-Examination.

By Mr. Riddle:

Q. Where was that meeting? A. It was, I think, the Electricians hall.

Q. Who presided at it? A. Well, the regular officials.

Q. Of the Union? A. Yes.

Mr. Riddle: That's all.

The Court: All right. Step down.

(Witness excused.)

GERALD PIERCE MASON,

being first duly sworn, testified in behalf of the defendants as follows:

Direct Examination.

By Mr. Randall:

Q. Mr. Mason, would you state your full name, please?

A. Gerald Pierce Mason.

Q. Where do you live? A. Jackson, Missouri.

Q. Are you a member of Local 318 Pipefitters of Cape Girardeau? [1,433] A. I am.

Q. Have you ever worked under the jurisdiction of Local 562? A. I have.

Q. And when did you first do that? A. 1953.

Q. And since 1953, have you worked on several occasions under the jurisdiction of 562? A. I have.

Q. About how much of your time do you spend working under the jurisdiction of 562? A. I'd say about fifty per cent of the time. It might be a little more.

Q. Are you familiar with the Voluntary Fund of Local 562? A. Yes, sir, I am.

Q. Have you contributed to it? A. Yes, sir.

Q. Have your contributions been voluntary? A. Yes, sir.

Q. Have you ever attended any of the meetings of the Fund? A. Yes, sir.

Q. Did you take some of your contributions to the office of Local 318? A. Yes, sir.

[1,434] Q. And who did you give them to there? A. Miss Sarff.

Mr. Randall: You may inquire.

Cross-Examination.

By Mr. Riddle:

Q. What did it cost you a day to work on a 562 job? A. Well, I wouldn't say it cost me anything. I volunteered to donate \$2.00 a day.

Q. Every day? A. Yes, sir.

Q. On every job? A. Yes, sir. Since it's been \$2.00 a day, I do.

Q. Before that you paid the \$1.00 a day. A dollar fifty cents a day, I believe it was. A. I guess so, because I worked before it was \$2.00 a day.

Q. Have you always paid just whatever they said it was? A. They didn't tell me what it was. It was just

whatever the members in the Local I was in was donating to the Voluntary Fund.

Q. They didn't—by “they” who do you mean, they didn't tell you what to pay? A. Anyplace I worked. Nobody told me exactly what to pay.

Q. You always paid what everybody else paid? A. That's right.

[1,435] Q. Plus your own dues to your own Local? A. That's right.

Q. Did you ever try to work on one of their jobs without paying this? A. No, sir.

Mr. Riddle: I have nothing else.

Mr. Randall: I have one question.

Redirect Examination.

By Mr. Randall:

Q. Sir, did you receive a vacation check last year from the Welfare Fund of 562? A. Yes, I did.

Q. How much did you get? A. It was six hundred dollars before any tax was deducted.

Q. Did you receive any vacation check from your own Local? A. No, sir.

Mr. Randall: That's all.

The Court: Step down.

(Witness excused.)

LLOYD KIDD,

being first duly sworn, testified in behalf of the defendants as follows:

Direct Examination.

By Mr. Daly:

[1,436] Q. Would you state your name for the Court and jury, sir? A. Lloyd Kidd.

Q. And where do you live, Mr. Kidd? A. Jackson, Missouri.

Q. And what is your business or occupation? A. Pipefitter.

Q. And do you belong to a union, sir. A. Yes.

Q. What local do you belong to? A. 318.

Q. Where is that local located? A. Cape Girardeau, Missouri.

Q. Now, when you sometimes work as a pipefitter, you are under the jurisdiction of Local 562? A. Yes.

Q. How long have you been a pipefitter? A. 1952.

Q. And that is about sixteen years? A. Yes.

Q. In that time, how much have you worked under 562's jurisdiction? A. Most of the time. Many times.

Q. Not always? In other words, many of the jobs were actually under 562's jurisdiction rather than your own local [1,437] union, is that right? A. Yes, sir.

Q. Now, during this time that you worked under 562's jurisdiction, did you hear of the Voluntary Fund? A. Voluntary Fund?

Q. Yes. A. Yes, sir.

Q. And did you make contributions to that Voluntary Fund? A. Yes, sir.

Q. What would your contributions ordinarily be, Mr. Kidd? A. To the Voluntary Fund?

Q. Yes, sir. A. At the present, \$2.00 a day.

Q. And was it one time more, or one time less than that? A. It was one time—that, I don't remember.

Q. All right. Now, when you work under 562's jurisdiction, what scale do you get paid? A. At the present?

Q. Yes, sir. A. \$6.16 per hour.

Q. What is the scale for your own local? A. At the present—it depends on area—\$4.91, I believe.

Q. \$4.91. Over a week's work, how much difference [1,438] would it make in your paycheck to you if you were working under 562 jurisdiction or under your own Local 318's jurisdiction? A. Ordinarily, in the past it has been from thirty to forty dollars per week.

Q. Have you also worked other than just as a journeyman on 562's jobs? A. I have been foreman, general foreman.

Mr. Daly: Your witness.

Cross-Examination.

By Mr. Riddle:

Q. Sir, your testimony is that you get from thirty to forty dollars more per week when you are working on a St. Louis job? A. Yes. Approximately.

Q. Is that why you are willing to pay this \$10.00 a week into the Fund? A. Yes.

Q. And you wouldn't be willing to pay this into the Fund, except for that greater pay, would you? A. I wouldn't say that. I'm a pipefitter.

Q. You mean if you could get the same money on a Cape Girardeau job as you can get on a St. Louis job, that you would still want to pay an additional \$10.00 per week? A. No.

[1,439] Q. You pay the \$10.00 a week for the right to work on their jobs, don't you? A. No.

Q. What do you pay it for then? A. I pay it because I think it is a good thing.

Q. For you? A. It's a good thing for the community.

Q. You think it is a good thing for you? A. For me, when it is used in my own community; yes.

Q. Sir, do you think it would be a good thing for you if the price was the same for both locals? A. Rephrase that question. What I mean; bring that up again. A good thing for me?

Q. Yes, sir. Do you think it would be to your interest to pay the \$10.00 into that Fund if you can make no more money off of a St. Louis job than you could on your own job? A. Well, I don't know about that.

Q. You wouldn't want to pay it, would you? A. Yes. If it was used in my community.

Q. Sir, is this money used in your community? A. Some of it goes for contributions, I understand, for hospitals.

Q. Do you know how much? A. Not the exact amount.

[1,440] Q. How do you know some of it has been used in your community? A. From the newspapers.

Q. Nobody in the St. Louis Local 562 told you that, did they? A. No.

Q. Do you know what else it is being used for? A. Other than it is a voluntary donation to be used for whatever they see fit.

Q. And sir, you are just willing to pay it every week? A. Yes, sir.

Q. Except if they were paying the same thing as your Cape Girardeau Local, you'd have some doubts about it?

Mr. Daly: That assumes something not in evidence.

The Court: Well, he is asking him a question. It is cross-examination.

The Witness: It is to my interest to pay the voluntary donation, because the wages are better under the St. Louis scale than they are in the Cape Girardeau scale.

Q. (By Mr. Riddle) Yes, sir. And it is a good deal for you to pay \$10.00 a week in order to get thirty to forty dollars more pay a week out of that job? A. Yes.

Q. That's the type of deal that you are saying is better [1,441] for you? A. Yes.

Q. And, except for that, you wouldn't be voluntarily paying anything, would you? A. No.

Mr. Riddle: Thank you.

Mr. Daly: No further questions.

The Court: Step down.

(Witness excused.)

KENNETH ELLISON,

being first duly sworn, testified in behalf of the defendants as follows:

Direct Examination.

By Mr. London:

Q. State your name, sir. A. Kenneth Ellison.

Q. Where do you live, Mr. Ellison? A. Sikeston, Missouri.

Q. Mr. Ellison, are you a member of Local 318 out of Cape Girardeau? A. Yes.

Q. Have you had occasion, sir, to work on some jobs under the jurisdiction of Local 562? A. I have.

[1,442] Q. Are you familiar, sir, with the Voluntary Fund? A. I am.

Q. Have you signed a card under the Voluntary Fund? A. Yes, I have.

Q. Have you contributed to the Voluntary Fund? A. Yes, I have.

Q. Who have you paid your money to, Mr. Ellison? A. I have paid to Mrs. Sarff at our office in Cape.

Q. Does she come around to you to collect this money? A. No, she does not.

Q. Does she call you and tell you to bring the money in? A. No, she does not.

Q. How does it come to pass that she gets the money? A. This became a practice when the men were changing jobs, that they would not be in contact with a 562 steward, so in order for them to get their money to the Fund without making a trip to St. Louis themselves, she would pass it on to a steward.

Q. And the men would bring it in to her? A. That's right.

Q. What is your position now, Mr. Ellison? A. At the present time?

Q. Yes, sir. A. I am a plumber foreman, 318.

Q. What job are you working on? [1,443] A. Pixco School, at the moment. It is a remodeling job.

Q. Have you ever held any job higher than the job you are now holding? A. I have.

Q. What job would that be? A. 562, general foreman.

Q. What job was that on? A. The last one was Southeast Elementary School at Sikeston.

Q. What was your wage rate as general foreman for 562? A. \$6.93 an hour, plus \$70.00 a week subsistence pay.

Q. If you had been holding the same job under a 318 jurisdiction, what would have been your pay, if you know? A. \$6.71 per hour.

318 job? What do they amount to? A. None. Health and

Q. How about your welfare benefits per hour under a welfare plan, hospitalization insurance.

Q. How much is that an hour? A. I don't know.

Q. Does the figure twenty-seven cents sound familiar to you? A. I am not familiar with it.

Q. Do you know what it is here under a 562 job? [1,444]

A. No, I don't.

Mr. London: You may inquire.

Cross-Examination.

By Mr. Riddle:

Q. Sir, tell us why you retain your membership in the Cape Girardeau local. A. Why? Because it is close to my home, and I don't have to travel.

Q. If you were a member in that local, you wouldn't have to pay this \$10.00 a week doby, would you? A. I don't have to pay it anyway.

Q. You don't have to pay it? A. No, I don't.

Q. Are you sure of that? A. Positive.

Q. Have you ever tried not to pay it? A. No, I haven't.

Q. Why haven't you tried not to pay it? A. The occasion didn't arise.

Q. How many weeks have you paid it? A. That would be hard to figure. It is something like four months all told.

Q. Four months all told? A. Yes.

[1,445] Q. You haven't tried not to pay it at all? A. No, I haven't.

Mr. Riddle: I have nothing further to ask this witness.

Mr. London: Nothing further.

The Court: You may step down. Go out that door.

(Witness excused.)

FLOYD HAAS,

being first duly sworn, testified in behalf of the defendants as follows:

Direct Examination.

By Mr. Randall:

Q. Mr. Haas, would you state your name, please, sir?

A. Floyd Haas.

Q. Where do you live? A. Poplar Bluff.

Q. Are you a member of Cape Girardeau Pipefitters Local 318? A. Yes, sir.

Q. And have you worked under the jurisdiction of St. Louis Local 562? A. Yes, sir.

Q. When did you first work under their jurisdiction? A. About 19 and 44.

Q. And have you, on numerous occasions, worked under [1,446] their jurisdiction then? A. Yes, sir.

Q. About how much of your time do you spend working under the jurisdiction of 562? A. I'd say about a fifth.

Q. About a fifth of your time? A. Yes.

Q. Are you familiar with the Voluntary Fund of Local 562? A. Yes, sir.

Q. Did you sign a contribution card? A. Yes, sir.

Q. And have you contributed to that Fund? A. Yes, sir.

Q. Were your contributions voluntary? A. Yes, sir.

Q. And who did you make the contributions to? the person? A. Usually the job steward.

Q. Did you ever make any of them at your Local's office? A. Yes, sir.

Q. To whom? A. One occasion, the steward was off on sick leave, and I did, on one occasion.

Mr. Randall: You may inquire.

[1,447]

Cross-Examination.

By Mr. Riddle:

Q. Sir, you pay this \$10.00 a week into the St. Louis Fund? A. Yes, sir.

Q. When you work on the Cape Girardeau job you don't pay that? A. No, sir. Well, if I am working for 562.

Q. You only pay it when you work on one of their jobs? A. That's right.

Q. Sir, do you make more money on a 562 job than you do on a 318 job? A. Yes, sir.

Q. Is this why you are agreeable to paying the \$10.00 a week? A. No, sir.

Q. Suppose you made the same on a St. Louis job as you did on a Cape job? Would you pay it? A. I'd be willing; I would; yes.

Q. You'd still pay the \$10.00? A. Yes, sir. That's right.

Q. Each and every week? A. Every week. I think it's a good thing. It is just like donating to my church, or anything.

[1,448] Q. You have never donated to this good thing, except for each and every day you worked, did you? A. Well, yes, I have.

Q. You put money into the Fund? A. (Indicating yes.) Some days that I didn't work, yes, sir.

Q. Was that to catch up on back payments? A. No, not necessarily.

Q. You mean you paid into the Fund on days—— A. I have. That I wouldn't be there.

Q. What? A. Days I didn't work for some reason, that I wasn't there.

Q. \$2.00? A. That's right.

Q. What about on days you worked on a Cape Girardeau job? Did you pay then? A. If it is under their jurisdiction.

Q. On a Cape job under their jurisdiction? A. Our local doesn't have the setup on that.

Q. You boys down in your local, you are independent of the St. Louis union, aren't you? A. Yes, sir.

Q. It is a pretty good thing for the St. Louis group. [1,449] I am wondering if you ever made an effort to get the same thing going down at Cape? A. We may.

Q. You may? A. We may.

Mr. Riddle: That's all.

Redirect Examination.

By Mr. Randall:

Q. Sir, did you receive a vacation check from the Welfare Fund of Local 562 last year? A. No, sir.

Mr. Randall: You did not. All right. That's all.

The Court: Anything else?

Mr. Riddle: No.

The Court: You may go out that door. Call the next witness.

(Witness excused.)

WILLIAM E. MABRY,

being first duly sworn, testified in behalf of the defendants as follows:

Direct Examination.

By Mr. Daly:

Q. State your name, please. A. William E. Mabry.

[1,450] Q. Where do you live, Mr. Mabry? A. I live, at the present time I live in Maplewood.

Q. Is that Maplewood, Missouri? A. Yes, sir.

Q. And where is your home? A. Cape Girardeau, originally.

Q. What is your occupation? A. Steamfitter.

Q. And do you belong to a union, Mr. Mabry? A. Yes, sir.

Q. What local do you belong to? A. Local 318.

Q. How many members do you have in Local 318, Mr. Mabry? Would you know? A. No, sir, I wouldn't actually know the exact amount.

Q. Since you have been a member—How long have you been a member of 318? A. I have been a member a little over five years.

Q. And during that time, have you always worked as a pipefitter? A. We have a combination local there, and I work with the plumbers and pipefitters; yes, sir.

Q. And some of that time have you worked under 562's jurisdiction? [1,451] A. Yes, sir.

Q. About how much of that time? Do you know? A. I'd say approximately three years.

Q. About three years. About three years of the five? A. Yes, sir.

Q. Now, is this a common occurrence that 318 men work on 562 jobs? A. Well, our local is so small, and now most of our work down in that area is plumbing work, and we depend on these bigger locals, you know, or other locals to work out of, you know.

Q. In other words, if you didn't work under 562's jurisdiction, a lot of your local members would be out of work, wouldn't they? A. Well, I couldn't very well say that. You know, you can go other places and work now.

Q. There is not enough work in the Cape Girardeau area for all the 318 members thought; is that right? A. Not usually, they are not.

Q. In other words, they can come work under 562, or they can go somewhere else? A. Yes, sir.

Q. Pipelining for 789 or 201, or something like that? A. Yes, sir.

[1,452] Q. During the time you worked under 562's jurisdiction, have you donated to their Voluntary Fund? A. Yes, sir.

Q. What donation do you make to that Voluntary Fund, Mr. Mabry? A. I donate \$2.00 per day.

Q. Do you donate this voluntarily? A. Yes, sir.

Q. Has anybody told you you had to donate it? A. No, sir, never have.

Mr. Daly: Your witness.

Cross-Examination

By Mr. Riddle:

Q. Mr. Mabry, where are you working today? A. I am working at St. Charles, Missouri, for Gross Engineering.

Q. Do you room here in St. Louis now? A. I have an apartment in Maplewood, Missouri.

Q. And you are paying \$10.00 a week into this Fund? A. I am donating \$10.00 a week to this Fund; yes, sir.

Q. You have donated it every week that you have been working on the jobs too, haven't you? A. Yes, sir.

Q. That is \$40.00 a month? [1,453] A. Yes, sir.

Q. How old a man are you? A. I am twenty-six.

Q. Would you rather work on a St. Louis job than a Cape Girardeau job? A. Well, yes, I have more benefits. I have hospitalization, welfare and retirement, and I make more money, usually.

Q. That is why you are willing to pay in the \$10.00— A. No, sir.

Q. —voluntarily? A. No. I think this Voluntary Fund is a good thing for members, and I think that the money they use is used wisely.

Q. Sir, you say it's been used wisely. Have you been told how it's been used? A. Well, I've seen how some of it has been used, like the hospital down at Cape Girardeau. And I understand, there have been young men tell me that it's been used to send them to college, and different ways of that sort. I think that's pretty wisely.

Q. What about a twenty-two thousand dollar a year salary for Mr. Callanan? A. Well, I wouldn't have his job myself.

Q. You think that is—— [1,454] A. He stays up 2:00, 3:00 o'clock in the morning finding jobs for guys, and things like that.

Q. What about a payment to him of a hundred thousand dollars or so?

Mr. Daly: I will object to this; ask it be stricken, the jury instructed to disregard it; a mistrial be declared.

The Court: No. Request for a mistrial will be denied.

Mr. Daly: May we make a record on this, Your Honor?

The Court: Sure, you can make a record.

(Thereupon the following colloquy ensued among the Court and counsel, at the bench, out of the hearing of the jury:)

Mr. Daly Mr. Riddle asked the question, "How about a payment of a hundred thousand dollars to Mr. Callanan?"

This is entirely outside of the scope of the evidence. There is no evidence that he ever got any kind of money like this from the Voluntary Fund. There is no evidence of any payment of a hundred thousand dollars to anybody particular, and all of the Voluntary Fund checks are in evidence.

I think this is very highly prejudicial to not only Mr. Callanan, but to all of the defendants who are charged with conspiring as to this Voluntary Fund, and, therefore, ask that that question be stricken, that the jury be instructed to disregard it, and a mistrial be declared.

Mr. London: May I add to Mr. Daly's objection the [1,455] fact on two previous occasions Mr. Riddle has asked questions as to the amount relating to the Gift Fund, and on both occasions, to my knowledge, the Court has sustained the defense objections to those questions and instructed Mr. Riddle not to go into the area of the amount of the Gift Fund, and now he has done it by means of a question of this witness, in violation of what I understood to be the Court's previous rulings on two previous occasions.

The Court: The situation is substantially different than it was in the other. I do think, however, that you should have laid a different foundation for the basis of your interrogation, in view of the witness's responses to other questions.

The request for a mistrial will be denied. I am going to strike the question and tell the jury to disregard it, but I am not going to prevent you from laying a foundation for asking such a question.

Mr. London: I am sure the record reflects this, Your Honor, because we have previously objected on the grounds of immaterial and irrelevant, but I want to add that also to our objection.

The Court: It will be the same ruling; be overruled.

(Thereupon the trial was resumed before the jury as follows:)

[1,456] The Court: The jury will disregard—Do you understand what I said about my ruling, Mr. Riddle?

(Thereupon, the following colloquy ensued among the Court and counsel, at the bench, out of the hearing of the jury.)

Mr. Riddle: Yes, but it wasn't clear to me about the foundation. Of course, it is up to me to know how to lay the foundation, but I thought I had laid the foundation. I didn't want to——

The Court: I don't think you have.

Mr. Riddle: I am reluctant to——

The Court: He's been in this for five years.

(Thereupon, the trial was resumed before the jury as follows:)

Q. (By Mr. Riddle) Sir, you say you have been paying into this Fund for a period of five years? A. No, sir. Just while I have been working out of this local.

Q. And that's been for how long? A. Approximately three years.

Q. Approximately three years. That would mean that you began paying into it about 19 and 65, the latter part of 1965? A. I wouldn't say for sure, but it could be very close.

Q. You haven't deviated from the \$10.00 a week, unless [1,457] you had overtime, or worked a short week? A. Well, when I work eight hours, I pay \$2.00 a day.

Q. You haven't deviated? A. No, sir.

Q. Sir, what about the period of time during the month of July and August of 19 and 66?

Mr. London: If the Court please, we will renew the objection made at the bench, and also add that this is beyond the scope of the direct examination.

The Court: Well, I don't know that the objection made at the bench was pertinent. As far as the other one, they will be noted, and the objection will be overruled.

Q. (By Mr. Riddle) How about 1966, during the period of time June, July and August? A. What about them?

Q. Yes. Do you remember paying into a fund at that time? A. Yes, sir, I sure do.

Q. What fund were you paying into at that time?

Mr. Daly: We object to that, Your Honor; ask the question be stricken, jury instructed to disregard it, and a mistrial be declared.

The Court: Be denied in all counts.

The Witness: Well, I really couldn't say, sir. That's been two years ago, you know. That's quite a while back.

[1,458] Q. We will refresh your recollection. Do you remember paying into the Callanan Gift Fund?

Mr. Daly: I object to that, Your Honor; ask the question be stricken, the jury instructed to disregard it, and a mistrial be declared.

The Court: Denied in all counts.

The Witness: Yes, sir, I believe I did sign a card to that effect when I was on the job.

Q. (By Mr. Riddle) Did you pay \$10.00, or \$2.00 a day into that Fund also? A. Yes, sir.

Q. And what were people in the St. Louis union, the St. Louis local, paying during that same period of time into the Callanan Gift Fund per day?

Mr. London: May we renew our objection to this entire line of questioning?

The Court: The objection will go to anything in relation to the period of—what is it? June, July and August of '66?

Mr. Riddle: Yes, thereabouts.

The Court: All right. Be overruled.

Q. Do you know the amount that the St. Louis local members were paying into Mr. Callanan's Gift Fund?

A. No, sir, I don't have. I don't keep track of that, sir.

[1,459] Q. Do you feel like you ought to pay more into Mr. Callanan's Gift Fund per day than the St. Louis members should pay? A. Well, I wouldn't know how to answer that, really.

Q. Let me be more specific. Do you think you should pay \$10.00; or \$2.00 per day, rather, and the St. Louis members only pay 50 cents a day into Mr. Callanan's Gift Fund?

Mr. London: I object to the form of the question as calling for a conclusion of the witness.

The Court: No. He may answer.

The Witness: Well, I don't know. I don't actually know what kind of dues they have, plus the Voluntary Fund, see. So I'm really not up to date on that, see.

Q. Are you saying that the amount that you voluntarily contribute then is, in your opinion, related to the amount of dues and assessments that they otherwise pay?

A. No, not exactly. This that I'm paying is strictly voluntary, see.

Q. Yes. A. The way I understand this, this is to help the body of our men, see.

Q. Yes, sir. In that connection, I am asking you now, if you would answer it for the jury, if you think you should have been paying \$2.00 per day into Mr. Callanan's Gift Fund [1,460] at the same time a member of the St. Louis local was paying 50 cents? A. Well, I must have thought so. I accepted to sign the card, so I guess you might say I accepted it.

Q. You accepted it? A. If I hadn't been for it, I wouldn't have signed the card, see. I wouldn't have been obligating myself, see.

Q. Yes, sir. You did sign the card? A. Yes, sir.

Q. At the time you signed the card, did you know that the St. Louis people were only paying 50 cents a day?

A. No, sir. Like I told you, I don't keep up with their, you know, records.

Q. With their dues, or assessments, or voluntary contributions either? A. No, sir.

Mr. Riddle: All right. I have nothing further to ask this witness.

Mr. Daly: Nothing further.

The Court: All right. You may step down. Call your next witness.

(Witness excused.)

The Court: Is this the C. P. A.?

Mr. Nangle: Yes, Your Honor.

[1,461] The Court: Come up, Mr. Riddle and Mr. Nangle.

(Thereupon, a colloquy ensued among the Court and counsel, at the bench, out of the hearing of the jury and the reporter.)

The Court: Members of the Jury, we are going to have our afternoon recess. I want you to bear in mind the admonition I have given you heretofore. All right.

(Following a brief recess, the further following proceedings were had before the jury:)

[1,462]

CARROLL C. SHELTON,

being first duly sworn, testified in behalf of the defendants as follows:

Direct Examination.

By Mr. Nangle:

Q. Please state your name. A. Carroll C. Shelton.

Q. What is your address, Mr. Shelton? A. 656 East Jefferson, Kirkwood.

Q. What is your profession, Mr. Shelton? A. I am a Certified Public Accountant.

Q. Do you practice accounting in a firm or association, Mr. Shelton? A. I have two partners. We have a firm.

Q. What is the name of your firm? A. Shelton & Von Cloedt.

Q. Would you please tell the court and jury, Mr. Shelton, your education and experience? A. I have a degree in business. I have been in public accounting since 1929, practicing general accounting in the City of St. Louis. I have also taught accounting in night classes.

Q. And do you belong to any professional societies or associations, Mr. Shelton? A. I belong to the American Institute of Certified [1,463] Public Accountants, and Missouri Society of Certified Public Accountants.

Q. Mr. Shelton, how long have you been a Certified Public Accountant? A. Since 1935.

Q. Mr. Shelton, are you familiar with the Pipefitters Voluntary Political, Educational, Legislative, Charity & Defense Fund? A. I am.

Q. Would you tell the Court and jury if you recall when you were first consulted with reference to the records of that Fund? A. I believe it was possibly 1964. I was asked by you to look at their records and to suggest

any possible changes, or such other items that might be desirable in the maintenance of the records.

Q. And was Mrs. Stieferman present at this time. A. Yes.

Q. Mrs. Stieferman was keeping the records at that time? A. That is right.

Q. Did you make any suggestions to Mrs. Stieferman and myself concerning the keeping of these records at that time, Mr. Shelton? A. I did.

[1,464] Q. Would you tell us, please, what recommendation you made, if you recall? A. I inspected the records as they were then being kept. I suggested that the cash be recorded by monthly collections. The method which was being used at the time consisted of a series of postings of the individual amounts collected on individual collection records for each contributor. Totals of these were then accumulated for postings on accumulated total collections, total of the collections. The volume of these postings was very tremendous. I inquired as to whether there was any particular necessity, and it was suggested that there was not; that the tremendous volume of work and with the human errors of posting, and then having to check back continuously to make these corrections would seem to be useless. The totals that were collected were totaled on summary sheets, and by proving out those sheets and proving the totals, it was somewhat easy to make a single entry for the total funds, which was supported by the daily collection sheets, the weekly collection sheets. We also—let's see. I think that was one of the main things we talked about.

We also talked about, at that time, the necessity for filing reports of amounts paid to individuals for services, the necessity for filing forms with the Government in order to comply with the law.

[1,465] Q. Did you confer with anyone at any later time about these records, Mr. Shelton? A. Yes. I conferred

with you, and again with Miss Stieferman, and we were concerned primarily with the adequacy of maintaining the proper supporting invoices and paid bills, and such, to support disbursements. We also again reviewed at that time some of the requirements for filing wage reports, and whatnot, which all wage earners must have reported.

Q. Do you have any idea when that second time would have been, Mr. Shelton? A. I didn't check my records. I think it was possibly '65. It might have been '64 or '65.

Q. Thank you. A. I might add, I also conferred with Mr. Craig and Mr. Wiley, and there were two other attorneys, I believe, in the meetings, as to the requirements for what might be required of this particular fund.

Q. Thank you. Now, have you had occasion to examine these records recently, Mr. Shelton? A. Of the Political Fund, yes, we have.

Q. Would that be the Political, Educational, Legislative, Charity & Defense Fund that you are talking about? A. Yes, sir.

Q. Do you recall when it was, recently, that you first [1,466] saw these records? A. I didn't check the date. That was the date that they were returned by the Government to your custody, and they were returned to the eighth floor of the Merchants Laclede Building, and this was the first time that I saw them. At that particular time, I was asked to determine if the Union's records had all been returned, and I made a cursory inspection at that time, and it appeared that all of the local Union's records had been returned. These records were also there at the time. We started the following Monday with three people working on these records, in accordance with your instructions.

Q. Mr. Shelton, you are the Certified Public Accountant for Pipefitters Local 562; is that correct? A. That is right.

Q. And what you are stating is that you examined the records which had been returned, the Local 562 records which had been returned, to determine their condition and whether they were all there; is that correct? A. That is correct.

Q. Now, Mr. Shelton, I'd like to briefly ask you—excuse me a moment—I'd like to show you Government's Exhibits 1 through 5, and ask you to look briefly at them.

(Records were brought close to the witness.)

The Court: There's four here.

[1,467] Mr. Nangle: I believe there is a check register there too that is marked as an exhibit.

The Witness: I saw that. I think you have one more book.

Q. (By Mr. Nangle) Now, I will hand you what's been marked Defendant Local 562's Exhibit J, Mr. Shelton, and ask you to look at that, please. Would you tell me what those records that you have just examined, which would be Government's Exhibits 1 through 5, and Local 562's Exhibit J, would comprise, Mr. Shelton? A. These records consist or include the record of the disbursements of the Pipefitters Political Fund, and there is a summary for three of the five periods of the receipts of the Fund.

Q. And the total receipts for the other two years, are they included, Mr. Shelton? A. I believe that they are, on separate sheets. Let me recheck.

Q. I believe the total is entered in the summary at the back, if I am not mistaken. A. That would be '63 and '64. Yes, you are right. It is in there also.

Q. Would you tell the Court and jury, Mr. Shelton, what period of time is covered by these receipts and disbursement [1,468] records you have? A. From January 1, 1963, through September 30, 1967.

Q. Now, Mr. Shelton, I'd like for you to look hurriedly at Local 562's Exhibits K, L, M and N, which are on these carts here, if you would, sir. And O.

(The witness stepped down from the witness stand to look at exhibits.)

The Court: In the interest of expediting this, Mr. Riddle, is it possible for Mr. Nangle to suggest what these various things are?

Mr. Riddle: Perfectly agreeable with us, Your Honor.

Mr. Nangle: Thank you, Your Honor.

The Court: K, L, M, N, and O are all Pipefitters Voluntary sheets, aren't they?

Mr. Nangle: Yes, Your Honor.

The Court: And one of them happens to be—I don't know whether that is the exhibit or not. The receipted bills, one of those.

Mr. Nangle: No, there is P, which is the checks, Your Honor, and Q, R, S, and T are the paid bills. That is what Your Honor is referring to, I believe.

The Court: All right.

Q. (By Mr. Nangle) You have examined these records very recently, haven't you, Mr. Shelton? [1,469] A. Yes.

Q. All right. Now, I believe before you stated that you and some of your staff began examining these records after the time they were returned on August, 9th. Did you examine these records to determine whether the money was accounted for, Mr. Shelton? A. We did.

Q. And did you examine these records to determine what persons did not contribute to the Voluntary Fund? A. No, sir, we did not. We were asked to, but it would have been an impossible task to complete within the time permitted.

Q. Were you able to completely finish your analysis of the receipt and disbursements of the money, Mr. Shelton? A. We accounted for all of the money which was collected for the entire period. We have a small difference, which I believe to be possible errors, that we did not have the time to completely run down and eliminate.

Q. Mr. Shelton, would you try to briefly tell the Court and jury what you did in your review of these records between August 9th, or shortly after August 9th, when you started, and the beginning of the trial? A. Yes. Each of the envelopes contained collection lists of the contributors to the Fund. Some of them, the [1,470] sheets represent collections which were brought in or mailed in, and other sheets including collections which were received by Mrs. Stieferman or others, whoever it might have been, at the Political Fund office. We added and attempted to tie up every one of these records, each of these sheets for the entire period, with the amount of money which was indicated on the summary sheets for the entire period of four years and nine months. We also test-checked the addition of the individual sheets to see that the totals were valid. We traced the deposits and compared the deposits with the monies received. The monies which were disbursed by currency during this period was entered on their records, and we examined the supporting documents on those particular disbursements, and we found that of the total money received, less that money which was paid out, was deposited in the bank, with the exception of this minor difference which I mentioned.

Q. Did you examine the checks and bank statements, Mr. Shelton? A. We test-checked—first we examined all the bank statements for the deposits. We test-checked the disbursements by examining, checking in all of the outstanding checks at the end of each month, and then detailed examination of three months of the disbursements

for each of the five periods. We also compared the paid bills on a test basis for [1,471] three months of each of the five periods.

Q. Did you check the endorsements on the checks? A. That is part of the detailed examination of the checks. We checked for endorsements. We checked for the payment date, the proximity of the payment date or the issue date. We checked for signatures, and any other indication that the check might have been other than as represented, and found no particular exceptions.

Q. Did you summarize the receipts and disbursements after you finished all this other work, Mr. Shelton? A. We summarized them for the entire period.

Q. Mr. Shelton, would you describe the condition of the records during the time that you examined them, subsequent to August 9th of this year? A. The records were not as I saw them on the prior examination. The first time that I examined the records there were adding machine tapes attached to each of the individual envelopes. There were adding machine tapes attached to the collection of—the groupings of the collection sheets inside, and when I examined them at that time, I don't mean an audit as such, but to see that they were doing what they said they were doing, I found that the receipts were all in order. The sheets were in order. They appear on the adding machine tapes, and there were also adding machine tapes which [1,472] accumulated the totals then of all that was in the envelopes, so it was very easy to check them right down the line.

At this particular time, many of the envelopes contained reports, which did not belong in the respective envelopes. It was difficult to—well, it was a situation of, in many instances, having to put them back in the proper envelope in order to balance out with the totals.

We found some instances where some of the regular Union's, the local Union's records had been put in with

these; that they didn't belong there. We had to run down to see that they did belong to the local Union, and take that out.

Q. Mr. Shelton, when you conferred with Mrs. Steiferman and myself on an earlier occasion, what type of records were being maintained for this Fund? A. They were maintaining an individual ledger sheet for each contributor, and they were posting the amount of the contributions of that individual contributor to each of these names, and then after the postings were made, which were designated by a printed date, the machine posted a total, or adding machine total was then run and compared with the total of the postings. The machine also produced a total of the amounts posted. The correction sheets had to be made for errors in posting when the amounts did not balance out with the total amount that had been cashed, and it involved a great [1,473] deal of detail work to maintain these items. I estimate there's approximately 380,000 postings would be required for this particular period.

Q. Mr. Shelton, other than the number of postings, were these records complicated? A. Very simple. The postings were made directly from the ledger sheets—I mean from the collection sheets, and they were simple. There was no need for any particular complicated accounting system to record the amount of monies received and the amount disbursed.

Q. And would it be fair to say that the suggestions that you made tended to simplify and make more—strike that. Well, would you describe the systems that you were suggesting at the first time that was discussed?

A. I suggested that the collection list be preserved within the envelopes as they were being done, that the tapes be tied in with the total collected, and that this be summarized then for the month, and the tapes which were on those envelopes at the time did that. We eliminated the individual postings to the contributors' accounts.

Q. Now—— A. If I might add, the purpose for eliminating, the Fund was voluntary and there was no particular requirement to determine how much individuals had contributed.

[1,474] Q. Mr. Shelton, were you also asked to prepare a summary of the categories of disbursement, in addition to your work on the receipts and disbursements figures?

A. Yes, sir.

Q. And did you prepare those summaries? A. I did.

Q. And do you have those summaries with you, Mr. Shelton? A. Yes, sir.

Q. This is the receipts and final determination of the Fund, and this is a summary of the disbursements.

(Thereupon Defendant Union Local 562's Exhibits Z and AA were marked by the reporter for the purpose of identification.)

Q. Mr. Shelton, I will hand you what's been marked Union Local 562's Exhibit Z, and ask you if you would tell the Court and jury what that is, please? A. This is a summary of the totals of the collections for the total period, that is, the contributions collected, and to which we have added the balance of the cash on hand at the beginning of the period, and from which we have deducted the total of the disbursements, and I might add the total of disbursements less some refunds which were received, and from the total of the receipts and beginning balance we have deducted the disbursements and a difference, the differences between [1,475] the amount accounted for, and we have come to the amount of the actual cash at the end of the period on September 30, 1967, and we have shown the balance of that to be in two banks.

Q. Now Mr. Shelton, I'll hand you what's been marked Union Local 562's AA, and ask you if you can tell the Court and jury what that is, please? A. This is a summary of the total disbursements for the period from Janu-

ary '63 through September 30, 1967. The totals were verified. We made tests to determine the validity of the disbursements, as I said before. The distribution was accomplished by assistance from Mr. Lawler and Mr. Callanan as to the purpose of some of the items, as to whether they were administrative or whether they may have been political, and some explanations which were required, we received from them.

Mr. Nangle: Your Honor, at this time I'd like to offer into evidence Local 562's Exhibit Z and Exhibit AA.

The Court: All right. They will be received.

Mr. Riddle: There is no objection.

(Whereupon Defendant Union Local 562's Exhibits Z and AA were received in evidence.)

Q. (By Mr. Nangle) Mr. Shelton, would you review for the jury the Exhibit Z? Would you tell the jury what this exhibit states? A. Exhibit Z starts with the balance of cash on hand at [1,476] the beginning of the period that we examined, January 1, 1963. To that we have added our audit totals, not the totals in the books, but the totals that we determined from the collection sheets, and from that we have deducted the amount of the disbursements which were made during this entire period, the disbursements both in currency and the disbursements by check. We then have added to the amount to be deducted the sum of \$1299, which we were unable to account for in this period, and I have called them differences on this statement, but I do not want to qualify the word.

I believe from the experience we have had, if we had sufficient time we might have been able to locate the reason for these differences, and in that particular regard I point out that in some cases there appeared to be a possible duplication of a collection. The collection may have come in and may have been rewritten on some of

the office records. This I'm not certain of. We did not have the time to find out.

Also, the postings which were made on the ledger sheet for each individual contributor, in order to locate any possible differences between the totals which were posted by Miss Stieferman, and those which we found, have involved such a tremendous amount of time we would not have been able to accomplish it, and we believe that for the purpose of this examination, the difference is so minor with respect to the [1,477] total, that it would not justify the time required to run it down.

Q. Mr. Shelton, I'd appreciate it if you'd review quickly for the jury the figures that you have just described. A. The balance on hand at the beginning of the period was \$44,361.82. The Government has an exhibit, which I made a hasty comparison of our figures with the Government figures, and I think we have stated collections for the period a total of \$1,480,000, and by comparing them with the chart of the Government, I find their figures are somewhat smaller, and it is possible that they had so much additional time that they may have located some of the errors that we could not locate.

The collections in 1963, according to our records, our determination was \$286,243. The amount on the chart is \$286,029. They have some \$214 less.

1964, our totals were \$290,838, as compared to the amount of the Government as \$289,783, our total being some \$55 higher.

In 1965, the Government's figures are 415,963. We determined, from our totals, it to be \$415,959.

In 1966, our total was \$239,200. The Government has \$11 more than we have.

And in 1967, our total was determined to be \$248,309, and they do not include it on their chart.

[1,478] Q. What was that last figure, Mr. Shelton? A. \$248,309.

Q. This period in September is not listed on the Government's exhibit? A. I don't believe any of 1967 is listed there.

Q. That is Government's Exhibit 60 that you are looking at, the chart? A. I don't know. I can't see it.

Q. Would you go on, Mr. Shelton, and review—then you come up with a total? A. Total collections for the period are \$1,480,551, which, together with the cash on hand at the beginning of the period, requires an accounting of \$1,524,912.

The disbursements for the period were \$1,368,484. We have an unaccounted difference of \$1,299, and it leaves a balance on hand of \$155,000 on September 30, 1967, which was represented by deposits of \$290 in the American National Bank in St. Louis, and deposits of 154,837 in Southwest Bank.

Q. Is it your testimony that all of the money of the Pipefitters Voluntary Political, Educational, Legislative, Charity and Defense Fund was deposited in the bank on September 30, 1967?

Mr. Riddle: Object to that. That would be calling for a conclusion—that no previous testimony has justified; [1,479] leading and suggestive. I object to the form of it.

Mr. Nangle: All right. Let me ask you this question, Mr. Shelton.

The Court: Beg your pardon?

Mr. Nangle: May I restate the question?

The Court: Yes.

Q. (By Mr. Nangle) Mr. Shelton, did you examine the money of the Fund at the end of this period of time, which would be September 30, 1967? A. We reconciled the bank accounts; yes.

Q. At that time? A. That's right.

Q. And according to this Exhibit Z, how much money would be on hand at the end of this period of time, or on September 30, 1967? A. There was on deposit in the bank \$105,128.

Q. Was there any currency on hand at the end of this period of time? A. None that I know of.

Q. But—— A. There was none available. I will put it that way. There could have been none, because it was all deposited; that which had not been disbursed.

Q. In other words, all the money that was reflected in [1,480] the record was in the bank on September 30, 1967? A. The balance that is reflected by the records was in the bank; right.

Q. Mr. Shelton,—May I have a moment, Your Honor?

The Court: You may.

Q. (By Mr. Nangle) I'll hand you Government's Exhibit 140, and ask you if you find a deposit of \$101,077 on that exhibit? A. Yes.

Q. I'll hand you Local Union 562's Exhibit J, and ask you if you find that deposit recorded therein? A. Yes, sir.

Q. I'll hand you Government's Exhibit 143, which I believe reflects a deposit of \$189,000, and I'll hand you Government's Exhibit 5, and ask you if that deposit is recorded there? A. Yes.

Q. Thank you, Mr. Shelton, when you recently examined the records of the Pipefitters Voluntary Political, Educational, Legislative, Charity and Defense Fund, did you find whether or not the recommendation you had previously made to Mrs. Stieferman and myself had been taken into account and done in the keeping of these records? A. Yes. She had accumulated her deposits. Unfortunately, [1,481] some of the tapes were missing that we couldn't check them, but she had accumulated her deposits and recorded them, and where we could find tapes,

they tied up with the records. And in most cases we were also able to reproduce tapes to tie up with the records.

Q. Were the receipts kept in the manner in which you had previously suggested? A. Yes.

Q. The paid bills, I mean? A. The paid bills, no. They were somewhat mixed. We found the paid bills had been moved from their respective envelopes apparently, and were not in the order that they should have been.

Q. But they were there, weren't they, Mr. Shelton? A. They were there; yes.

Q. And I believe you had previously stated that you are a Certified Public Accountant for Pipefitters Local 562?

A. Yes, we are.

Q. And your firm has done their auditing for what period of time, Mr. Shelton, if you recall? A. The first time we were engaged in 1953, and we covered a period of seven years from the date of their prior audit, and then we have done it annually since then.

Q. Excuse me a moment. Mr. Shelton, I will hand you [1,482] Government's Exhibits 63 through 68, and ask you if you can tell what these are? A. These are reproductions of that which we call Form LM-2 for the local union, for the period beginning October 1, 1961, and going through September 30, 1967, and they were all prepared by my office.

Q. Prior to the completion of these records, Mr. Shelton, did you confer professionally with anyone about their content? A. The financial data is ours. We normally referred, I believe, in all cases we referred the reports to Mr. Craig for any matters which should be reported to the Labor Department with reference to By-Laws or other official acts of the Union. The financial data is ours.

Q. In other words, you reviewed these with Mr. Craig before they were submitted to the Union officers for signature; is that correct? A. Correct; yes, sir.

Q. And did you comply with any recommendations that Mr. Craig made? A. Yes. If he advised us that we should add answers to the page 1, the additional information data, any items which he stated should be reported, we included.

Q. Mr. Shelton, would you please tell the Court and jury the full name, Mr. Craig's full name, and his firm? [1,483]

A. I think it's Wiley, Craig—I am sorry, I can't tell you. I don't remember it.

Q. What is his full name? Would it be Harry Craig?

A. It is Harry Craig. You refreshed my memory. That's right. Harry Craig.

Q. Mr. Shelton, you know Mr. Lawrence Callanan, do you not? A. I do.

Q. And do you know whether Mr. Lawrence Callanan was ever on the payroll of the Pipefitters Voluntary Political, Educational, Legislative, Charity and Defense Fund at the same time he would have been on the Pipefitters Local 562 payroll? A. We have examined the records of the Political Fund, if I may use the shorter term, and we have examined the records of the Union fund for this entire period. At no time did Mr. Callanan get paid from both jobs at one time.

Q. He may have worked at both jobs, but he received no compensation from both jobs? A. He received no compensation.

Q. Now, Mr. Shelton, are you familiar with the Voluntary Fund, Inc., a Missouri not for profit corporation? A. I am.

Q. And did you assist in the record keeping for that corporation? [1,484] A. At your request, we prepared the records for their first year, June 30 of 1967. We prepared the records for them, and such other data as they needed.

Q. Mr. Shelton, I'll show you Local Union 562's Exhibit AA, and I see at the bottom a total of \$191,670.41 listed for Recreation Center. A. What is your question, sir?

Q. Was this money paid to the Voluntary Fund, Inc.?

A. It was either paid to them by checks, or it was expended for the benefit of the Voluntary Fund, Inc. The Voluntary Political, Educational, Legislative, Charity and Defense Fund paid some bills for the Pipefitters Voluntary Fund, Inc., and the amount that was paid for them is included together with the amount of money that was actually transferred to their bank account.

Q. And it was also listed on the records of the Voluntary Fund, Inc., those expenditures on behalf of the Voluntary Fund, Inc.; is that correct? A. On the records of the Voluntary Fund, Inc., we picked up the amount of the disbursements and treated it as being a paid-in capital to the Voluntary Fund, Inc.

Q. Now, Mr. Shelton, in September or October of 1967, do you know if the trustees of the Pipefitters Welfare Fund decided to purchase a portion of the land up in Clarksville [1,585] that was owned by the Voluntary Fund, Inc.? A. Yes. We were asked to prepare certain amounts, and the schedule to determine it, and which would be paid to the Pipefitters Voluntary Fund, Inc. by the Welfare Fund.

Q. Were you asked to accumulate the cost so that it could be purchased at its precise cost, Mr. Shelton? A. That's right, we did.

Q. And you have the total that was paid for that portion of that land on your schedule there, Mr. Shelton?

A. I do. The total that was paid by the Welfare Fund to the Pipefitters Voluntary Fund, Inc. is \$65,141, and this was paid to the Voluntary Fund, Inc. in November of 1967.

Q. Do you have Local Union's Exhibit AA there, Mr. Shelton? A. Yes.

Q. Would you please read the totals of the various categories that you have accumulated? A. There was accumulated in the category of administrative expense a total of \$192,898. The category for political contributions in expense of political activity was \$867,080. The contributions to civic and charitable organizations and groups, \$106,728. There was paid as aid to members, a total of \$10,106. There was paid for the Voluntary Fund, Inc. a sum of \$191,670.

Mr. Nangle: Excuse me one moment. I have no further [1,486] questions, Your Honor. Thank you, Mr. Shelton.

The Court: Will you step up a minute, please?

(Thereupon a colloquy ensued among the Court and counsel, at the bench, out of the hearing of the jury and the reporter.)

The Court: You may step down.

(Witness stepped down.)

The Court: Members of the jury, I must go to Hannibal tomorrow on court work. Customarily my staff goes up today, and they customarily leave in time to get there before dark, and you may have seen my bailiff go out before. So I am going to recess until Monday morning at 9:00 o'clock so they can go. In the meantime, I am not going to impound you, so I want to call to your attention again the admonition I have given you heretofore about not discussing this case with anyone, or permitting anyone to discuss it with you. You are not to talk to any lawyers, parties or witnesses. You are not to read any newspapers and you are not to listen to radio or television at the time that there is likely to be any stories on about it. If there is, you should turn it off and not listen to it.

All right. See you all Monday morning at 9:00 o'clock.

(Thereupon at 4:00 p.m., on Friday, September 13, 1968, court was adjourned until 9:00 a. m. Monday Morning.)

[1,487]

Monday, September 16, 1968
Morning Session

CARROLL C. SHELTON,

having previously been sworn, resumed the witness stand, and the further following proceedings were had:

Mr. Nangle: Your Honor, I have some enlargements of Mr. Shelton's. Would it be all right to mark those now, or would you prefer to wait until later?

Mr. Riddle: It would be perfectly all right to do it now.

(Thereupon Defendant Union Local 562's Exhibits BB and CC were marked by the reporter for the purpose of identification.)

Mr. Nangle: May the record reflect that Exhibit BB is an enlargement of Local Union 562's Exhibit Z, and Exhibit CC is an enlargement of Local Union 562's Exhibit AA, Your Honor?

The Court: All right. The record will so show.

Cross-Examination.

By Mr. Riddle:

Q. Mr. Shelton, you testified Friday prior to the recess. As I recall, you identified yourself as a C.P.A.? A. That is right.

Q. And the person who has done accounting work for Local 562 for the past several years? A. Yes, sir, that's right.

[1,488] Q. Now, sir, have you audited the books and records of the Union's various funds? A. Only the funds of Local 562. The fund of the Secretary-Treasurer of the Union. Specifically, not the Welfare Fund nor the Pipefitters Voluntary Political Fund.

Q. Now, you say you have audited the receipts and disbursements and the books and records of all monies that the Secretary-Treasurer of the Local is accountable for? A. Right.

Q. Sir, where does the money that goes into those funds, that is, the ones that the Secretary-Treasurer is accountable for, where do they come from? A. They come from dues of the members. They come from the daily work assessments of the members, and from interest earned. That substantially covers it.

Q. But it would cover all the dues and all the day-to-day assessments? A. Right.

Q. From all of its members? A. Yes, sir.

Q. And, of course, that money on occasion draws interest; and that would be an additional source of income into that account? A. Right. They have invested surplus funds in Treasury [1,489] certificates, and at one time they had a certificate of deposit in a local bank.

Q. Yes. Now, you mentioned the Welfare Fund. Have you done any work with those books? A. None at all.

Q. Do you know who does? A. I think Gillies and Dwyer are the accountants who handle it.

Q. That's another C. P. A. firm? A. It is a local C. P. A. firm; right.

Q. Now, to your knowledge, from examination of the books and records, is the money that goes into the Welfare Fund money that is contributed into that by employers, contractors? A. I have never examined them. It is my understanding that they are the fringe benefit contributions from the employers.

Q. Now, sir, in connection with the monies that come into the Secretary-Treasurer, as you have described it, how are those monies kept? In bank accounts? A. Yes. I would say yes. Bank accounts and investments and Treasury cer-

tificates, and as I said, at one time they had a continuing certificate of deposit.

Q. How many different accounts do they have? A. Bank accounts?

[1,490] Q. Yes. Covering those funds. That is, of the regular dues and assessments? A. I believe they had one, I think—a total over the period of three.

Q. Three different accounts? A. Three different bank accounts.

Q. Now, sir, in your examination of those records, can you tell the Court and jury who is authorized to execute checks to withdraw funds from those accounts? A. Well, I know Mr. Burke is. There may be others. I don't recall without having referred to our files. I wouldn't recall who they were. Some of the other officers may be on the checks. Mr. Burke signs—To the best of my knowledge, he signs them all.

Q. All right, sir. How often over the past several years have you made an audit of those funds? A. I think our first engagement was 1953, and if I can recall correctly, we went back six years to cover the period to which a prior audit had been made, and since then we have made the audit annually. On occasion we have gone in on a semi-annual basis to do part of the work on an interim basis, but the audit is as of an annual date. Year was September 30th, and last year they changed it to a calendar year, so for 1967 we were in as of the end of September, and began as of the [1,491] end of December.

Q. Now, as a result of the audits that you performed of those funds, the receipts and disbursements, do you file a written report annually with the Union? A. Yes, sir.

Q. And on this report you make certification that you have examined the records, and the report that you give is true and correct? A. Yes, sir.

Q. And base your professional reputation on what you have examined? A. We do.

Q. And you itemize, I assume, in your audit you check each and every expenditure and each and every receipt? A. Well, not each and every. We normally do a substantial test of the items, enough to satisfy our professional opinion that the funds are being accounted for, and that the disbursements are proper.

Q. And you say the money that comes in to the Welfare Fund, you have never audited those books and it is your understanding that another C. P. A. firm does that? A. Correct.

Q. Now, sir, how much time does this annual audit consume? That is, your time and the people working under your direction [1,492] and supervision? A. Well, I have not—last year I did supervise the job myself. Most of the years I do not supervise it. One of the other partners will have supervised it. Without refreshing my memory, I would say that we have a total time of, oh, let's see—oh, approximately fifty to sixty man days.

Q. That your people spend down at the Union hall? A. That, and working on the file in the office. That would be the total time.

Q. And this happens once a year, and it's happened once a year since 1953? A. Correct.

Q. Now, sir, have you ever been requested, prior to the last few months, to make an audit of the account known as the Political Voluntary account? A. The matter was discussed at one time on a very general basis, and to the best of my recollection, I expressed the opinion at the time that I saw no particular need for us to audit it. I believe if I had, why they would have employed us to do it.

Q. Sir, did they ever ask you to do it? A. Specifically, as I said before, I do not recall—I'm sure they never asked

us specifically, or we would have done it. I think it was discussed at one time.

[1,493] Q. Who did you discuss it with? A. With Mr. Nangle.

Q. Anybody else? A. There may have been someone else present, a Miss Stieferman present at the time it was discussed. I really don't recall specifically. I didn't think it a matter of great importance at the time.

Q. Yes, sir. Now, sir, you did perform some sort of an examination of the records of that Fund over the past few weeks? A. Oh, yes. Yes.

Q. Now, was that an audit that you performed? A. It was a special examination for the specific purpose of attempting to account for all of the recorded receipts of the Fund.

Q. Now, sir, you say to account for all of the recorded— A. Or all of the receipts of the Fund. Let's put it that way.

Q. What did you mean when you just used the word all "recorded" receipts into the Fund? A. I think that's a professional habit, that we work with records, and we refer to the records and receipts are recorded, and these are the receipts with which we are working. Contained what we actually worked with were all of the collection sheets which are represented in those boxes over [1,494] there. We started with those and accounted for the money which was represented by the collections on those sheets.

Q. Well, now, sir, are you testifying and telling this jury and this Court that all of the money received from all of the members of Local 562 and out-of-town members has been accounted for? A. All of the money that is listed on those sheets has been accounted for.

Q. Yes, sir. My question, sir, are you telling the Court and jury that all of the money paid by the Union members, 562 and out-of-towners, has been accounted for? A.

I don't want to quarrel with you, Mr. Riddle. All of the records, all of the cash of which I have knowledge has been accounted for.

Q. Well, my question is, are the records—let me rephrase it, sir.

Are the records that you have, sufficient for you to tell this Court and jury that all monies received have been accounted for? A. Well, specifically, we made a test for a two-year period.

Q. If you would answer the question, and then make your explanation.

The Court: Answer the question. Then make your [1,495] explanation.

The Witness: It is a difficult question to answer. It is a double-barreled question. We made certain tests, and I would say for the latter period we did not have the time to do certain tests that we wanted to.

Q. Sir, maybe I can make my question a little bit more single-barreled. A. All right, sir.

Q. Can you now tell the Court and jury whether or not these records are adequate for you to, as a professional man, to account for all the money that was collected from the jobs? A. No, I can't say that; no, sir.

Q. All right, sir. And why can't you? A. Well, number one, anyone may have collected money and not listed it on the sheets, as a starting point.

Number two, they may have collected the money listed on the sheets and never turned it in. That would have been a collection not accounted for.

And, finally, money could have been collected and they could have turned it over to a messenger. It never was received. The money may have been turned in and have been lost somewhere in the handling, and

Thirdly, I suppose that Mrs. Stieferman, or anyone else, could have absconded with part of the money by destroying [1,496] those lists, and I would like to make an explanation of what we did to try to account for some of that.

Q. Yes, sir. Well, now, in just a little bit we will get back to that.

You are saying then that it is entirely possible that the money, even if it were collected off the job, we will say from ten employees, could never have gotten into the office? A. That's right.

Q. One. A. Yes, sir.

Q. That the messenger could have lost it or absconded with it? A. Right. An office employee could have absconded with it.

Q. Number two, you are saying from these records you have no way of knowing the money, once it was collected and actually arrived in the office, was actually accounted for or deposited in any account, because there is a possibility that people in the office — A. Could have absconded with it; right.

Q. Or a third possibility is, from your testimony, if I understood it correctly, is that the money could have gotten into the office, and it could have been taken out by people other than employees in the office? [1,497] A. Well, if the employees made the record, were making a record of the collections, I would assume that they were to come up short somewhere down the line. It would be called to their attention.

Q. The simple matter of fact, sir, is, or is it not, that if any person wanted to take a thousand dollars out that was in cash, the only thing that they'd have to do was pick up enough of these daily reports, or weekly reports, that total a thousand dollars, and there would be absolutely no way for you to determine that? A. There would

be a way for us to determine it; yes, sir. We didn't have sufficient time to do that. That is part of the explanation I wish to make when we get to it.

Q. Yes, sir. But you say that—You are not saying that that did not happen, or could not have happened? A. It could have happened.

Q. You are just saying that you don't know? A. That is right.

Q. Now, sir, you say that you could have checked it out? A. Yes, sir.

Q. Assuming that ten people paid to a steward on the job, and those ten people were given no receipts, and that the collections sheets from those ten people were destroyed, how would you go about checking that out? [1,498] A. For the first two years we attempted to make a—

Q. Just answer the question, if you will, how would you go about checking that hypothetical situation out? A. We would sort all of these sheets into a source order, a job order, the job from which the men would be working, from which the stewards were collecting the money. We then would have gone to the Welfare Fund to see the names of the people who were being covered by employers, in other words, outside of the Union, but the source being the reporting sheets by employers to the welfare would have given us the names of all of the people who were working on the particular jobs at a particular period. We then, if we had had sufficient time, would have compared the contributors represented by these sheets with the information we would have obtained from the Welfare office; and we believe that would have given us a rather substantial check to see whether any sheets were missing.

If a name were missing on a job, if we could account for all the jobs, collection lists from the jobs, and a name wasn't on there, there would be no way we would be able

to determine it, because the Fund, being voluntary, there was no compulsion that they pay.

Q. Is this your expression? Did you say it was voluntary, no compulsion to pay? A. That is what I understand.

[1,499] Q. Is this what you were told, or is this what you know? A. I believe the card states that.

Q. The question is, is this what you know or is this what you have been told? A. It is what I have been told.

Q. Yes, sir. Go ahead. A. I am trying to explain why we would not be able to distinguish between the members in the local union. Their dues and assessments, we account for every member, we examine a collection card for every member. Now, there are members there that do not pay, and on that, those particular members who are not required to pay, we ask the Board of Trustees to approve the absence of collections of funds from them. We compare these collections, these members' cards with per capita reports, to be sure that we have them all, distinguishing these sheets. If there is no compulsion, again, if I—I will restate it, if there is no compulsion for them to pay, then I cannot demand that I find a collection item from each member. I am trying to distinguish between the two.

Q. Yes, sir. Now, you say that there are some people who are exempted or excused from paying assessments?

A. The regular members?

Q. Yes. A. Those who are ill and not working, and those who are [1,500] in military service, and those who are retired.

Q. Or who have a special hardship? A. In a case, a special hardship. I believe, however, if they are working, there are very few who are excused. I can't recall any who are excused that are employed.

Q. But some are, to your knowledge? A. The unemployed, the aged, the ill, and so forth.

Q. Would be excused from paying assessment? A. Assessment and dues, both.

Q. What about an assessment? A. If they don't work, there would be no assessment.

Q. Did you just testify some assessments were excused for hardships? A. I'll correct that. I don't think any assessments are excused; only the dues are. If they are working, there are assessments, and I know of no assessments excused from working members.

Q. Sir, in going over your audit, the one that you conduct from time to time of their regular accounts, receipts and disbursements,— A. This is the regular Union funds.

Q. Yes. Do you go through the checks and get some general knowledge as to the type of disbursements, the type of expenditures that are made out of those regular union funds? [1,501] A. By tests, we examine paid bills and vouchers and other support for the items which are being disbursed. Again, the Board of Trustees approve all of the disbursements each month, their cash disbursements records, and I think if you will examine them you will find the names or the initials of the trustees who approved the disbursements each month. This gives us some sense of security, but in addition to that, we do examine by test the record disbursements, the checks that are issued.

Q. You say the checks that are issued are all approved by a Board of Trustees? A. The disbursement is approved.

Q. Yes. But in getting at the type of disbursements that are approved, did you develop some familiarity with the nature, generally, of the expenditures or disbursements? A. Familiarity with?

Q. Yes. A. Yes, we have. I think we have a general familiarity; yes.

Q. What are the general or typical type disbursements from out of the regular fund that the Board of Trustees

approved? A. Well, I believe, of course, the largest number of disbursements, recurring disbursements, are for the salaries of the employees of the Union.

[1,502] Q. All right. A. Officers and employees. Possibly their second largest class of expenses, in amount, would probably be for travel. I'm guessing. This is available, but I don't have it with me.

Q. All right. A. The third would probably, might be, oh, the third would probably be, oh, contributions.

Q. Contributions, to whom? A. To various charities, and so forth.

Q. Charities? A. Various charities and civic-support type organizations.

Q. Such as? To boys' clubs? A. Boys' clubs.

Q. Churches? A. Right. A lot of them for churches. They normally would take an ad in some church paper, or they will make a contribution to, well, I know they buy a large amount of tickets to the Shrine Circus each year; various items that they are solicited for.

Q. All right. The charitable payments from out of that Fund are rather diversified and numerous? A. Right.

Q. And cover a multitude of projects, all the way from [1,503] church functions to community affairs, to specific charity efforts, etc.? A. Yes. I left out one very large one in the nature of disbursements would be per capita tax.

Q. That goes in to the United? A. It goes in to the United, and they pay per capita tax to, in addition to the United Steamfitters, they pay to, oh, food industries, they pay to, I think there is one other. They are small. The large ones go into the national fund.

Q. Now, out of these charitable contributions that we referred to, this would include, specifically, hospital projects, hospitals around over the area? A. It would if they gave to them. I can't specifically recall if and when they

did give to a hospital. This fund did. This particular—the Political Fund made contributions to hospitals.

Q. But this is the type of contribution that frequently appears under the charitable contributions in the regular account? A. Right; yes, sir.

Q. Sir, in going over the books and records of the Fund, the one that you have just recently examined— A. Political Voluntary Fund?

Q. Yes. Did you find a substantial contribution from [1,504] that Fund also? A. Contributions of these charitable and civic natures?

Q. Yes. A. Yes, sir, we found quite a substantial amount of money.

Q. In fact, you have totaled these amounts to approximately \$106,000? A. Yes, sir.

Q. In looking through the civic and charitable contributions, did you see a similarity between the recipients' projects as between what you observed in the regular Fund and out of this Fund? A. I don't—you said similarity. You mean to the same charities?

Q. In a general sort of way, the same kind? A. Yes, sir. We would consider the term civic and charitable contributions would include the same overall scope.

Q. Any check, if you saw it in here, if you saw it in your regular account, you would— A. I would so classify it.

Q. You would have so classified it. Sir, you have categorized another list and headed it "Aid to Members," and you have shown that to total \$10,000. A. Yes, sir.

Q. Do the records indicate to you the type of aid, or [1,505] the members who were receiving that aid? A. The disbursements of the first two years were classified by Miss Stieferman as to various categories, and we inspected them. I would like to qualify. I thought I made clear

that this distribution was done rather hurriedly. Our primary engagement was for the purpose of trying to account for the recorded collections, the collections that are recorded on these sheets. This was done rather hurriedly, and it was done with the aid of Mr. Lawler and Mr. Callanan, in some cases, to tell us what the disbursement was for.

Q. Yes, sir. A. I do not represent this as an independently verified audited figure. I would like to make that clear. Now, coming back to your question—

Q. The aid to members. A. The aid to members were payments which were distributed to a charity column by Mrs. Stieferman. We found some errors in her distributions. We reclassified them, some apparent errors.

The aid to members represented payments to people who apparently were financially in need at a time there was a strike existing.

Q. Yes, sir. And this was explained to you as being money paid to members for their needs relating to a strike? A. Not to a strike, because they were not strike benefits, [1,506] as such.

Q. I understand that, but I am asking you how it was referred to you and how it was explained to you by Mr. Lawler and Mr. Callanan. A. They stated that these people—this money was given to them as assistance at a time when they had no income, and it was for the general welfare of these people.

Q. And you say that this was during the time of a strike? A. Yes, sir.

Q. All right, sir. Now, sir, in connection with the column that you have headed, "Administrative," did you make a sufficient check of the records in order to determine what type of expenditures formed those figures? A. Mr. Riddle, that is a catch-all column. I am sure that a

substantial amount of money in that column was used for political purposes.

For instance, in that particular group, in payment of printing bills, where the bills were indicated to be for a particular political party, or political candidate, or political cause, it was classified as a political expenditure.

Q. And show up in the political—— A. ——column.

Q. All right. A. But there were many others that were merely printing [1,507] that did not indicate that that was the particular purpose of the printing. There were invoices for many thousands of mimeograph, unprinted mimeograph paper, items of that type that we couldn't attribute to anything particular, that found their way into that column.

In this column were other items which we could not identify with a particular political activity.

Q. Now, sir, under the Administrative column, do you specifically recall one of the items was a Victor adding machine? A. Yes. There was a payment to Victor; yes.

Q. All right. Do you know where that Victor adding machine is? A. No, I do not.

Q. Did you ever see it? A. No, sir.

Q. Well, is there a Victor adding machine in the regular Union office that you go to each year? A. Well, this—we account for the equipment at the regular Union by——

Q. My question, is this machine being used by the Union? A. I don't believe so. It may be. I don't know. I haven't noticed it. Let me put it that way.

Q. Now, sir, when an expense item for new automobiles may show up—— [1,508] A. Mr. Riddle, if I may go back and re-answer that first question. I know Mr. Burke wished to buy some adding machines, and he called us, and we recommended a certain make, which is not a Victor adding machine, and I know that he personally has

two of those particular type machines in his office. I don't recall a Victor adding machine in his office.

Q. Yes, sir. Sir, with reference to automobiles that were purchased, how would they show, which column would they show up in? A. Administrative.

Q. Did you find any automobiles purchased? A. Yes, sir.

Q. How many? A. There was a station wagon, and I think there may have been a total of three. I don't recall specifically. I think there were three.

Q. Three? A. Including the station wagon.

Q. All right, sir. Do you know what the others were? A. I believe—I don't know that I got the invoices out on them all. They told me they were for automobiles, and we classified them that way. I would rather not guess.

Q. Yes. Were there any indications in the records as to who those cars were for? [1,509] A. No, sir, not on their disbursements records; no, sir.

Q. Did Mr. Callanan and Mr. Lawler explain to you whom they were for? A. No. I don't believe it was brought up at all.

Q. I see. Now, sir, in connection with the administrative further, did you notice payments to individuals that would be rather substantial, such as \$5,000? A. For political contributions?

Q. No, in the Administrative column. A. No. I don't recall any classification classifying any such items as administrative.

Q. What about a payment in May of 1963 to John Hough for \$5,000? Would you look at that book and see how you classified that? A. May of '63?

Q. May 20th of '63, to be exact. A. That was classified as of—yes, John Hough. That was classified as administrative. I believe he is an attorney, isn't he?

Q. For \$5,000? A. Yes, sir. He is an attorney, isn't he? I think he is an attorney. I believe it represented his fee.

Q. Was it represented to you what type of services he performed? [1,510] A. Legal services.

Q. In connection with what? A. I didn't inquire.

Q. All right. Did you see any other large figures such as that, that you put under Administrative? A. I have no immediate recollection. I'll be happy to look for you.

Q. All right. We will pass over that for the time being.

Now, sir, do you have indicated or entered a column over here, "Recreation Center"? You show a total for that purpose of \$191,670? A. Yes, sir.

Q. Can you tell the Court and jury how those figures were used, based upon what the books and records indicated to you? A. These amounts represented disbursements from the Voluntary Political Fund. Of the \$191,000, if I recall correctly, \$125,000 was represented by two checks transferring funds. The other amounts represent the monies advanced at various times, times up there to buy land and to pay contractors, and there was also some money spent for the political party, I believe, to pick their candidate at that time, and the money was paid for it and paid up there, and we included that part in there too.

Q. All right, sir. Sir, did the records indicate whether or not the title to this property up there,—you say "up there." [1,511] I assume you mean up at Clarksville? A. Yes, sir.

Q. —that the title of that property up there was made in the name of the Voluntary Fund, Incorporated? A. I did not examine the title at any time. We also prepared, at Mr. Nangle's request, the records of the Voluntary Fund, Inc., which is a not for profit corporation, which took title to this particular property up there. That is, the Voluntary Fund is not the Union. It is a not for profit

corporation organized under Missouri law, and that organization took title to the ground.

Q. Now, is this Political Fund, Inc., incorporated? A. No, it is not Political Fund. It is Voluntary Fund.

Q. Or the Voluntary Fund, Inc.? A. Right.

Q. You say that was created under the Missouri corporation not for profit statutes? A. Yes, sir.

Q. Now, then, where did all of the assets that went into that corporation come from? A. This money, \$191,000, came from the Voluntary Fund.

Q. Yes, sir. A. At a later date, the Welfare Fund purchased a portion of the land and building from the Voluntary Fund, Inc. They [1,512] paid some \$65,000 to Voluntary Fund, Inc. The Welfare Fund acquired a part of the real estate from the Voluntary Fund, Inc.

Q. You say a part of the real estate? A. Yes, sir.

Q. And the rest of the real estate is still owned by the Voluntary Fund, Inc.? A. As far as I know.

Q. Part of it is owned by Voluntary Fund, Inc. and part of it is owned by the Local's Welfare Fund? A. Yes, sir. We do not examine the books of the Welfare Fund, but two checks totaling some \$65,000 was received from the Welfare Fund by Voluntary Fund, Inc. for a portion of the real estate. Now, we didn't see the transfer of title, but that was the purpose of it. We compiled the figures of cost which were used to determine the amount that they should pay.

Q. Yes, sir. Now, in connection with your conversations and your advice as to how to determine the figures that went into the recreation center, were you told the purposes for this center? A. Not specifically. I can give you my general understanding. I don't know who told me, and I can't say for sure.

Q. Let me ask you this, specifically, sir: Were you told, in connection with setting up the books and making the

entries, that this recreation center was for the benefit of the [1,513] Union members, members of 562 and their families? A. Well, I understood it was a dual purpose. It was going to be used for political purposes and for the members of Local 562, and that was the reason for the separation of the properties.

Q. Oh, I see. A. This is my understanding of it, Mr. Riddle. I don't know that anyone specifically told me this, and I can't tell you for sure where I got the understanding, but that is my general understanding.

Q. Well, then is it fair for me to summarize your testimony by saying that a part of the money that went into the recreation center came from the Voluntary Political Fund? A. Yes, sir.

Q. Through the conduit of the Political Fund, Inc. for the use and benefit of members of 562 and their families? A. No, I didn't say that. I'm sorry, sir. I don't think I said that, if I did, I would like to correct it.

Q. What did you say about that, and about its use, as far as you know it? A. I said as far as I understand, the property has been divided, a portion of the property to be used for the general welfare and benefit of the members of Local 562, and a part of the property is to be used for political purposes.

[1,514] Q. All right, sir. A. This is my understanding.

Q. All right. And the part of the property that is being used for, according to your understanding, for the benefit of the members, has been transferred to the Welfare. Would that be your— A. This is my understanding; yes, sir.

Q. All right. And the rest of it is to be used for political purposes? A. On a general basis, yes. This is, again, my understanding.

Q. Well, sir, did anyone explain to you, either of these defendants, or Mr. Burke, or anybody representing them,

the reason for organizing the separate corporation? A. No, I don't think I have had any particular explanation of why they did it. I presume maybe to limit their liability. I don't know; for public liability, or whatnot.

Q. Now, sir, in going through the records, did you break down, per year, the amount that was generated from the collections out on the job or from the members? A. I did break—Will you restate that? I am not quite—

Q. Well, maybe I should restate it. Your figures, I believe, show a total collection of a million and a half, [1,515] approximately. A. A million four hundred eighty thousand.

Q. A million four hundred eighty thousand. Now, sir, did you determine how much of that was paid in '63, and how much was paid in '64, and so on? A. As segregated by the envelopes.

Q. All right. A. And to explain that answer, it was quite apparent that sometimes the collections made on the jobs were not turned in for two or three weeks, for a period of two or three weeks, and we have segregated by years on the basis that the collection sheets were segregated by years.

Q. All right, sir. A. I may have a December collection appearing in the following year. That is, a collection on the job in December may have reached in the office and been in a January, or even as late as a February envelope.

Q. Well, now, in your worksheets did you break them down by month? For example, in January of 1963, does your worksheet show how much was collected, based upon what you examined? A. As they are segregated by the envelopes; yes.

Q. Do you have your worksheets that give us those monthly collections, in front of you? A. I'll see. All right, sir.

[1,516] Q. All right. In January of '63,— A. Yes, sir.

Q. How much? A. The total collections, as we found them in the envelopes, were \$12,915, excluding \$341 which were December collections and were put back with the 1962.

Q. All right. So in January it was \$12,950, excluding— A. 915.

Q. 915. All right. February of '63? A. The collections for February, or totals were \$26,285.75.

Q. All right. And March? A. \$33,447.70.

Q. All right. April? A. \$23,736.50.

Q. May? A. \$26,554.75.

Q. June? A. \$33,183.65.

Q. July? A. \$12,154.

Q. August? A. \$15,442.

Q. September? [1,517] A. \$15,856.

Q. October? A. October, the schedules seem to be missing. Let me see something here.

Q. Well, let's pass October then for now. November? A. There may have been none. I don't know. I'd have to check to see.

November is \$38,233.25.

Q. December? A. \$48,499.90.

Q. All right. Now, begin for '64, and give us for each one of those months, if you can, without my asking you the questions, to save some time. A. January, \$24,516.75.

February, \$19,192.50.

March, \$27,256.

April, \$20,986.50.

May is \$4,553.75.

June is twenty-six eight thirty-two twenty-five.

Q. What did you say the May figure was? A. May figure is \$4,553.75.

The Court: Four?

The Witness: \$4,553.75.

Q. (By Mr. Riddle) June? [1,518] A. \$26,832.25.

Q. July? A. \$32,260.90.

Q. August? A. \$31,562.95.

Q. September? A. \$11,279.25.

Q. October? A. \$40,151.13.

Q. November? A. \$15,052.22.

Q. December? A. \$36,669.

Q. All right. For '65 now. Sir, before you get into that, the one month of May, 1964, you indicate that the payment there was four thousand, which is substantially less than the other months. Did you make a check or find any reason for that substantial decrease for that month? A. It so happens I didn't work on the particular month, and I did nothing about it.

Q. All right. A. The envelopes are there.

Q. All right. '65. Can you give us those by months? A. I think I have this summarized somewhere else that [1,519] might save us time. No.

January of 1965, \$29,208.

February of 1965 is \$27,071.75.

March is \$28,895.48.

April is \$30,430.75.

May, \$28,194.88.

June, \$35,221.75.

July, \$37,257.

August, \$35,353.35.

September is \$39,802.75.

October is \$39,417.50.

November is \$39,471.55.

December is \$45,634.25.

Q. All right. '66? A. January, \$38,404.25.

February, \$28,383.75.

Q. March? A. March is \$33,822.50.

April, \$34,923.95.

May, \$22,678.25.

June, \$1,882.

July, nothing.

August, \$539.50.

September, nothing.

[1,520] October, \$16,033.25.

Q. All right. Go ahead. The rest of the year? A. November, \$33,789.50.

Q. December? A. December, \$28,797.75.

Q. Sir, for the period of time July, August and September, did you make a determination as to why there were no receipts during those months?

Mr. Daly: We would object to this, Your Honor, and ask that question be stricken and the jury instructed to disregard it, and a mistrial be declared.

The Court: No. That will be overruled. It would go to the qualification.

Q. (By Mr. Riddle) Did you make a determination as to why there were no receipts for those months? A. Again, I understood that the collection were—or contributions to the Fund were suspended during this period.

Q. Now then, sir, from your examination of these records, did you run into any receipts being received into the Callanan Gift Fund?

Mr. Daly: I object to that, Your Honor, and ask it be stricken, and the jury instructed to disregard it.

The Court: No. He may answer.

The Witness: We did not examine that Fund.

[1,521] Q. (By Mr. Riddle) You ran into records there, I assume, relating to it? A. I saw some records there. I

saw some cards. We did not examine the records, in fact didn't inspect them.

Q. I see. Sir, when did you understand that the collections into the Voluntary Fund were suspended? As of what date? A. I really don't recall the date.

Q. Do you know the date that they were resumed? A. Specifically, I don't know. I know collections were made in October.

Q. All right, sir. I notice that there were no monies received into this fund in July, and none in September, but that in August there was \$539 received. Can you account for that? A. Without specifically looking, I assume this was a collection of some prior period that came in late. I'm not sure.

Q. A back collection? A. Probably.

Q. Yes, sir. You continued to work it out month by month for the year 1967, did you not? A. Only through September.

Q. Through September. Do you have those figures there, for the record? [1,522] A. Yes, sir. For January, \$23,770.55.

February, \$23,904.

March, \$26,405.75.

April, \$20,287.75.

May, \$31,800.75.

June, \$31,324.

July, \$30,644.75.

August, \$31,860.10.

Q. All right. A. September, \$28,311.90.

Q. All right. Sir, are you familiar with the form that is prepared annually and submitted to the United States Department of Labor? A. Form LM-2?

Q. Yes. The form LM-2. A. We prepared it for the Union.

Q. That has been one of your services to it? A. To Local 562.

Q. Yes. Now, sir, in the preparation of these forms, what monies received did you account for? A. Local 562.

Q. All right. Can you identify the funds or the sources that you did account for? A. From the receipts of the Secretary-Treasurer, which [1,523] included the members' dues, the initiation fees, the daily work assessments, interest collected, possible refunds of expenses.

Q. Yes, sir. Sir, under Item No. 49, there appears on one of the forms the question, "Monies received from members for disbursement on their behalf." Are you familiar with that provision? A. I think I know what you are speaking of; yes. May I have one of the forms?

Q. Yes.

(Mr. Riddle handed form to the witness.)

A. Item 49; yes.

Q. Now, where on these forms have you reported or made reference to the million and a half dollars that was received from members and out-of-towners into this Political Fund? A. No, it was not part of the Union's funds.

Q. Just one minute, Your Honor.

The Court: All right.

Q. (By Mr. Riddle) Sir, are you familiar with the By-Laws and Constitution of the Local? A. I've read them, Mr. Riddle. When you say "familiar" I wouldn't attempt to remember what is in them.

Q. Well, sir, to your knowledge, is there any limit on the amount of special assessments that the membership of Local 562 could vote on themselves? [1,524] A. In the By-Laws is there a limit?

Q. Yes. A. I don't recall. I can't remember it. I recall that they vote on the amount that they will—on the

amount that they will pay. Whether there is a limit in the By-Laws, I do not recall.

Q. Sir, referring to Government's Exhibit 207, which indicates that the regular assessments from the Union into the Fund, that your company audit amounted to approximately \$1.50 for an 8-hour day? A. For the certain years; yes, sir.

Q. That would be from years 1-1-66 up to date, apparently? A. (Indicating yes.)

The Court: Answer. Don't shake your head.

The Witness: Oh, yes, sir.

Q. (By Mr. Riddle) From your knowledge and information about the Union, about its By-Laws and its records, and whatever source of information you have, do you know of any prohibition against increasing the assessment up to even \$2.00 a day? A. I do not know whether there is a limitation in the By-Laws or not. I'd have to refresh my memory, sir. I don't recall it. As I understand it, the members could vote anything they want. I don't recall.

Q. Yes, sir. Sir, I will hand you what's—well, let [1,525] me approach it this way. Section 2.05 of the Constitution and By-Laws of Local 562, are you familiar with the section I have just referred to, which reads as follows:

“We recognize that the interests of this labor organization are not limited to matters of organization and collective bargaining or even to those matters and things additionally set out in Sections 2.01, 2.02, 2.03, and 2.04,—”

The Court: Slow down a little.

Mr. Riddle: (Continuing) —“but extend to all types of economic, social and political activities, including, but not limited to, activities of a cultural, civic, industrial growth, legislative, political, fraternal, educational, charitable, welfare and social nature which further the inter-

ests of this organization and its members directly or indirectly."

Are you familiar with that? A. I have read it, Mr. Riddle. As independent accountants and auditors, it was so much verbiage that had no particular place in our audit. This was a matter of what the members wanted to put into our By-Laws and did not affect the financial.

Q. I see. Now, sir, in connection with the charitable accounts, let me ask you about these specifically. If you had run into an article or an item in the regular books, that is, where this dues and assessments come in, but that appeared to be a payment of \$100 to St. Jude's Hospital, would you have [1,526] classified this as a charitable figure? A. I would; yes, sir.

Q. And showed it as a proper expenditure on your audit of those accounts? A. Yes, sir. If the check were endorsed properly, why not?

Q. What about the contribution to the Dismas Clark Foundation? A. We consider that to be a local charity, yes, sir.

Q. Yes, sir. And would have been a proper expenditure of the Union funds? A. Yes, sir.

Q. And what about to the Alexian Brothers Hospital? A. We would consider it to be proper if the Board of Trustees approved it.

Q. What about St. Louis Variety Club? A. That is a charitable fund-raising organization. If the Board of Trustees had approved it, we would not take exception to it.

Q. And the Boys' Club of St. Louis? A. Yes, sir.

Q. Vesper Gospel Chapter? A. Same.

Q. Sherwood Day School? [1,527] A. Yes, sir.

Q. Then the payment to the Teamsters Annual Charity? A. That is a fund-raising function; yes, sir.

Q: And you would consider that a proper expenditure of the Union's regular funds? A. If the Board of Trustees had approved it, we would find no exception to it.

Q. American Cancer Society? A. Same.

Q. Let me ask you, sir, if in going over the books and records of the Political Fund, if you did not find these type of donations, the one, well, specifically, these donations and contributions paid from those funds when you went through the records in the last few weeks? A. You stated did I not find them?

Q. Yes. A. Did I find them? Is that your question?

Q. Yes. A. We found disbursements to St. Jude's. I am sure we found them to the Variety Club. I am sure we found them to the Teamsters Variety Club, or whatever they call it, that fund-raising function. I am sure we found those. I can't specifically remember Sherwood. It was the Sherwood School, you see.

[1,528] Q. Yes. A. We may have. I don't recall specifically.

Q. Yes, sir. Well, specifically, of the entire list totaling \$106,728 that you have shown as civic and charitable contributions from out of the Political Fund, do you recall a single one of those that you would not have approved as being a proper and legitimate expense of the Union from out of its regular dues and assessment proceeds? A. No, I recall none. Again, if the Board of Trustees had approved it—it is not up to us to say how the Union may contribute its funds, and if these had been on the Union's books and approved by the Board of Trustees, we obviously would have had no fault with it.

Q. Yes, sir. But these \$106,000 are the type that you wouldn't have any serious question about at all? A. I would not have questioned them if the Board of Trustees had—

Q. Yes, sir. A. In this particular Union fund, I think they gave an iron lung. They bought a trailer for the scuba divers' organization, this lifesaving thing. They bought a wheelchair for someone. These particular items, why we would want to be sure they were what they said they were.

Q. And if they were, it would have been a—— [1,529]

A. If the Board of Trustees had approved them, we could not have taken exception to them.

Q. And you would have considered it a proper and legitimate expense of the Union? A. Yes, sir.

Q. Yes, sir. And those monies then would have been entered on the accounts and reports that you filed, or on the reports that you filed with the United States Department of Labor? A. Yes, sir, I think we itemized them on the LM-2.

Q. And those expenditures you would have included, had it been in the regular funds, you would have included on your annual audit of the Union's records? A. Yes, sir.

Q. And what about the expenditure for these recreational facilities up at Clarksville? Had they appeared on the books and records of the Union? A. We would have looked to see that they were authorized in the minutes, and we would have looked to see that they were approved, again, by the Board of Trustees. In expenditures of this nature, and involving this amount of money, we go beyond a mere representation. We attempt to see that there is an authorization for it as well. The minutes of the—we would have expected the minutes of the Union to include such an authorization.

[1,530] Q. But the type of expenditure, namely, for recreation area, would have been approved and legitimate and proper so long as it had been approved by the directors and the management of the Union? A. I think in this particular case we might have gone to their By-Laws and

their others to see whether they might have gone beyond their scope, again, for this type of expenditure I am talking about, and this volume. We probably would then have asked counsel for approval of it to be sure they were within their proper rights in making such a contribution.

Q. And going down your list, under the heading "Administrative," did you run into anything under that item that totals \$192,000? A. Well, once more, Mr. Riddle, this was——

Q. That you would not have approved as a legitimate and proper expenditure from the Union funds? A. I won't answer that affirmatively, because, once more, we went through this rather hurriedly, and with the aid of Mr. Lawler and Mr. Callanan, and I don't think we gave them quite the same consideration we would have in the audit of our Union records.

As I told you before, this was done rather hurriedly at the end of our examination, and it is a catch-all classification.

[1,531] Q. Sir, let me ask you if you recall a single expenditure that you categorized as Administrative that you would not have approved in your regular audit of the Union funds? A. I don't recall any; no, sir.

Q. Assuming, of course, the trustees approved it. A. If the trustees approved them.

Q. Yes. Now, sir, under the "Aid to Members", that \$10,000 item, had that expenditure showed up as payments out of the regular Union dues, would you have approved that as a proper and legitimate expenditure of Union funds? A. I believe so.

Q. Yes, sir. A. Yes, sir. In this particular fund, I think the card authorized such also.

Q. I am talking out of expenditures that you saw there that you labeled "Aid to Members." Had they appeared, those same type expenditures, out of the Union funds,

you would have approved them as being a proper and legitimate expenditure of Union monies? A. If we verified them, if they had been approved by the Board of Trustees, we would have so classified them; yes, sir.

Q. With respect to the column that you have labeled, "Political" that totals \$867,000— A. I don't think we would have approached any part of that.

[1,532] Q. Yes, sir. A. Out of the Union funds.

Q. Yes, sir. That's because certainly those payments were for federal candidates? A. Some were. Of the total, I wouldn't attempt to make an estimate, but it was not the majority of it, I'm sure.

Q. Yes, sir. Then, sir, in all columns that you are talking about, with the exception of the Political, had they appeared as regular Union expenses approved by the trustees, you as an auditor and C. P. A. would raise no question about it? A. If we were satisfied as to the approval of the trustees, the authenticity of the disbursement, and as I said, with the exception of the last column, I think we would have given—the size and amount of nature—we probably would have gone to counsel to be sure they had the authority to so make it. Outside of that qualification, we would have claimed them as normal, proper Union expenditures if the Board of Trustees had—

Q. Yes, sir. But on the item "Political" you would have had to go to counsel to know about that, would you? A. No, sir. We are familiar with the fact that unions do not make contributions out of their union dues and assessments.

Mr. Riddle: Yes, sir. That's all.

The Court: Any redirect examination?

[1,533]

Redirect Examination.

By Mr. Nangle:

Q. Mr. Shelton, when Mr. Riddle was examining you before, you kept trying to make an explanation about your examination of the receipt records, particularly during the early years. Did you test, or perform any tests to determine whether the receipts in the early years were accounted for, Mr. Shelton? A. We made what we called a continuity test. We labeled a job by name, and possibly the name of the collector, and we attempted to see that there was a continuity of the sheets from week to week through the two years to see that we had them all.

Q. I see. Had you intended to perform this test on the later years as well, Mr. Shelton? A. Yes, sir. I wanted to go beyond that. I wanted to also take specific individuals and see if—I wanted to go to the Welfare office and see if we were getting reports from all of the jobs, and would have gone further to determine why we were not, why they were not included. This was time prohibitive. I mean with the time permitted for our examination, we just couldn't make it.

Q. Now, in the record keeping for a voluntary, for voluntary contributions such as these, you do have the problem in other charities, Mr. Shelton, do you not, of whether or not all the receipts to the various persons who are collecting are [1,534] accounted for in the books; is that correct? A. You have that in any charitable organization. That depends upon collections from individuals to be collected by individuals, as to whether the individual is properly listing the total amount collected from each person; whether they are including the amount collected from each person properly. Whether they are omitting the names of those people, as well as the amount;

Q. Now, in these later years, of course, there were no records at all about the individual persons who were contributing to this fund; is that correct, Mr. Shelton?

Mr. Riddle: I will object to that as being a leading and suggestive question.

Mr. Nangle: I will rephrase the question.

The Court: All right.

Q. (By Mr. Nangle) Mr. Shelton, were there any records in the later years of the names of the individual contributors and how much they contributed for any period of time? A. Each of the sheets shows how much is paid each week, or is collected each week from the individuals, distinguishing the first two years from the later years. The first two years' postings were made to accumulate the amount collected from each contributor. This was discontinued and did not continue after December 31, 1964.

[1,535] Q. I will ask you, Mr. Shelton, if you are familiar with the fact that Mrs. Stieferman stopped working for the Voluntary Fund in about April of 1964? A. That's my understanding; yes.

Q. Now, there was some jumping around of the figures in 1964, Mr. Shelton. Is it possible that was because of her delay in—

Mr. Riddle: I want to object to that as being a leading question.

The Court: Yes. Don't lead him.

Q. (By Mr. Nangle) Well, let me ask it this way. During 1964, were the collection sheets posted regularly, if you recall? A. We weren't present, so I can't answer. I do know the continuity of their posting.

Q. Well, your accumulation dates probably would—
A. Just a moment, and I think we can—as I understand

your question, was there a difference in the regularity of posting in '64 than in prior periods?

Q. Right. And later periods? A. Not specifically. The postings in 1963—wait till I find that sheet—were made at the beginning of the period they were made, oh, approximately weekly. Later in the year of 1963, this was reduced to possibly two to three times [1,536] per month. In '64, the postings in the latter part of the years were made approximately two to three times a month. The specific dates, you mentioned—

Q. Look at the month of May, Mr. Shelton, if you will, please. A. May postings were, there were only two postings in May of '64, and then it jumped until June 21st of '64, and then to June 28th of '64. It's difficult to accumulate exactly how the sheets were accumulated before they made their postings. There is another thing that is somewhat difficult. The postings indicated on this summary sheet are a summary of the postings which were made to the individual collection sheets of the contributors.

Q. Yes, but your associates checked the continuity of these collections during this period of time? A. We do not know what date they posted them, is what I am trying to say.

Q. I understand. Now, Mr. Riddle asked you some questions about this category, "Aid to Members." Was there any certain amount that was paid to members during 1963, if you recall, to each and every member? A. No. These were a relatively few number of people. There were odd amounts. I think in a couple of instances they paid, the checks were issued other than to the direct recipient. [1,537] I may be mistaken. I believe this is the classification where they may have paid some bills for some member. Somebody, apparently they were sick, indigent, needed some help.

Q. For some certain purpose? A. For some purpose.

Q. Now, on your direct examination, Mr. Shelton, Mr. Riddle asked you a question about the use of the Recreation Center by Union members.

The Court: This was cross-examination. Go ahead.

Q. (By Mr. Nangle) On Mr. Riddle's cross-examination, Mr. Shelton, he asked you a question about the use of the Recreation Center by Union members. Were you ever told that non-union members working within 562's jurisdiction were prevented from using these facilities? A. I was never told who would, or could, or could not use them. I assume that the card—

Mr. Riddle: I want to object to what he assumes, Your Honor.

The Court: Be sustained.

Mr. Riddle: And ask that be stricken.

The Court: It will be stricken.

Q. (By Mr. Nangle) I believe on cross-examination Mr. Riddle also asked you some questions about the Voluntary Fund, Inc. You did not form this not for profit corporation [1,538] yourself, did you, Mr. Shelton? A. No, sir. I understood you formed it.

Q. Your figures, Mr. Shelton, go through September of 1967. That's just a part of the year that—could you tell me the reason for your ending the period at that period of time? A. The grand jury subpoenaed the records of the regular Union fund, and apparently the Voluntary Political Funds through September of 1967, and that's the extent of the records which were returned and which we examined.

Q. I see. Now, Mr. Riddle asked you certain questions about your breakdowns of these disbursements into the various categories, and you stated as far as the Recrea-

tion Center, that you would probably have wanted to consult with attorneys for the Union before you would approve those as being proper union expenditures. A. Due to the size and scope, I would have wanted to be assured that these were expenditures of the regular union, and within the By-Laws and authority.

Q. As far as the administrative, certain administrative expenses and certain charitable contributions, is it not possible when you got into the detail of that—

Mr. Riddle: I want to object to that as a leading and suggestive question also, Your Honor.

[1,539] Mr. Nangle: I will rephrase the question, Your Honor.

The Court: Very well.

Q. (By Mr. Nangle) You did not have occasion to go through the administrative and civic and charitable contributions in enough detail to determine whether that would have been necessary, did you, Mr. Shelton?

Mr. Riddle: That is a leading and suggestive question.

The Court: I think it is leading, Mr. Nangle. It is your witness.

Q. (By Mr. Nangle) Mr. Shelton, the amount of time that you spent on examining the records, how did that compare with the time that you spent comparing these breakdowns? A. Oh, the breakdowns were done in probably, oh, the classification, the summaries, the aggregate time involved by myself and my men probably did not exceed twenty-five hours, total.

Q. And could you estimate, could you give us some idea of how much time you spent examining the Voluntary Fund's records in total? A. In total?

Q. Yes. A. I haven't checked the total time reports on it. I would say the total time involved is going to be approximately, oh, in excess of five hundred hours.

Q. I see. May I have one moment, please, Your Honor? I [1,540] have no other questions Your Honor.

Mr. Randall: Your Honor, I'd like to ask a few questions.

The Court: All right.

Redirect Examination

By Mr. Randall:

Q. Sir, did you and your associates in your firm prepare all parts of the LM-2 reports, or were parts of them prepared by someone else? A. We prepared all the financial data, and then they conferred with Mr. Craig, and he either made additions to the page 1 asking for certain change data, and other matters involving the organization's By-Laws, and items of that nature.

Q. Who is Mr. Craig? A. Mr. Craig is an attorney here in the City who——

The Court: I don't want to limit you on this, but we went through it. He couldn't remember the entire firm name. He said Wiley, Craig.

Q. (By Mr. Randall) What I wanted to know, was he the attorney? A. He was the attorney. Your Honor, I have no doubt about it.

Q. And the local aspects of the LM-2 were prepared by Mr. Craig, the attorney? [1,541] A. That is right.

Q. And you testified, said,—you testified when you had some doubt as to the legality of the expenditure by the Local, you consulted with an attorney, and you meant Mr. Craig; am I correct in that? A. That is right.

Q. And do you know whether or not Mr. Craig wrote the By-Laws and Constitution of the Local? A. I do not.

Q. But any interpretation of the By-Laws and Constitution you referred to Mr. Craig, the attorney for the Local? A. That is correct; yes.

Mr. Randall: That is all.

Mr. Daly: I have no questions.

Mr. Riddle: I just have an additional matter on recross.

Recross-Examination.

By Mr. Riddle:

Q. Sir, is it your testimony that from the records down at the Union hall, that a person, you, or someone else, Mr. Callanan, or Mr. Lawler, Mr. Seaton, could go to the records that were available and determine if any given person was paying money, and if so, how much? [1,542] A. You mean the Local 562?

Q. Yes. A. Yes. They kept cards showing how much was collected in dues, how much was collected in work assessments, and how much was collected for initiation.

Q. And also how much was collected—I don't want to get you confused—I am talking about the records of the Union and also of the Fund. A. Well—

Q. My question is whether or not from the records of the Fund, plus the records of the Union, you could determine if any member paid for any work period, and how much he paid into the Fund voluntarily? A. Into the Voluntary Fund?

Q. Yes. A. For the first two years, postings were made to accounts for individual contributors. After that, they were discontinued through 1964. We are involved in '63, 4, 5, 6 and 7. For 1963 and 1964, a ledger sheet was maintained to show the collection for each contributor. After that the Voluntary Fund did not maintain a record of amounts collected from each contributor. The regular Union has always maintained records of the amounts paid in for dues, assessments, and initial initiation fees. [1,543] Q. Sir, I don't believe I made my question clear. Say in February of 1966, based upon the records as you

are acquainted with them, could you go down there and determine whether John Jones, a member of 562, had paid into the Voluntary Fund for the previous week? A. There is no record which would show such, to my knowledge.

Q. That would show such a collection? A. Only those individual sheets would show.

Q. This is what I am asking you. A. Oh.

Q. Do you consider those records? A. Well, yes, sir. I possibly misunderstood your question. I thought you meant is there a record maintained to show how much each individual contributor paid in on any particular date. Yes, you can go through those records and you can determine who paid any week. It's a long, laborious job, but you could determine it.

Q. Well, the only thing you'd have to do is pick up the returns and reports that are filed this week and look at them? A. But they are not all filed simultaneously, Mr. Riddle. Some of them come in—from our observation, some of them came in sixty days late. In addition to that, the individuals who mailed their contributions, or the individuals who came in person [1,544] and went to the office of the Political Fund and made payments, they are on a separate listing and sheets.

Q. So that you could determine by looking at it in 66, '67, '64, '63? A. If you wanted to look at each individual sheet each day, you can see who contributed that day.

Q. If Mr. Callanan wanted to look and see, he could go right there and look? A. I assume so; yes, sir.

Q. Yes, sir. Now, sir, in checking the records, did you make a determination as to how this cash that was received was deposited and handled? Cash that came into the Voluntary Fund? A. They made a record of their deposits as they mailed them, and there was a portion of the period they made a record of the transfers to the safe deposit box in currency.

Q. Yes, sir. A. That later on apparently was discontinued. We did do this, Mr. Riddle. We determined that all of the cash collected for the entire period eventually was either disbursed or went into the bank account.

Q. Now, sir, are you saying now that you determined that all cash collected— A. As represented by the collections.

Q. By the books? [1,545] A. Yes.

Q. You are not telling them that all the cash was collected on the jobs? A. No. I think we discussed that, yes.

Q. Did you find on occasions there was in excess of a hundred thousand dollars cash deposited in the bank account at one time? A. One time. That is correct; yes, sir.

Q. And that for a period of time this amount of cash was in safe deposit boxes? A. Yes, sir.

Q. And who was—Do you know who had access to this safe deposit boxes? Did that show up from your records? A. I didn't look for it. I don't know. The money was no longer there. There was no particular occasion to worry about it.

Mr. Riddle: I have nothing else to ask him.

The Court: Anything else?

Mr. London: One question, if I might, Your Honor.

Redirect Examination

By Mr. London:

Q. Mr. Shelton, Mr. Riddle has asked you about comparing Union and Welfare records with the Fund records to determine who had and who had not paid. Do you remember that question, sir? [1,546] A. I think so.

Q. Did you make an examination of these records, sir, to determine who had or who had not paid over the years in question? A. We were requested to make an examination

to determine the names of individuals who were irregular contributors, and determine if a specific list of seventy-five names had ever made contributions.

Q. Did you make an estimate, sir, of how much time it would take you to make a determination of who had and who had not contributed to the Fund over the years in question? A. Not for the years in question. We estimated, to make a test just for a six-month period would have required approximately eighty days' time; eighty man days' time.

Q. And this would be a test for just picking seventy-five names? A. Seventy-five names to find out. Also, the eighty days. My total test was 106, I believe, for the two functions.

Q. If you wanted to make a complete determination for some thousand members over a four-year period as to who had and who had not contributed into the Voluntary Fund, about how long would that take you, as a C. P. A.? A. I hate to estimate it, sir. I'd have to give it more thought, but it would take a very considerable time. The only satisfactory way to do it would be to re-accumulate by [1,547] individual names, and I want to add that there is another great difficulty in even doing that. We found over the years where stewards were previously, prior to the days of checkoff, were collecting dues from members. We might find one man written and described in six different manners. He might be a Red Smith, a Bud Smith, a Bob Smith, and it was very difficult over the period of time when we were not using, prior to the time of checkoff, we used to end with a great list of names that we would have to run down and find out who they were, and many times we found one man described six different ways. You would have to eliminate all of those items also. Before you did, it would be a tremendous job.

Q. So that what you are saying that you did estimate for a test run of seventy-five names for six months would take

you about eighty days of work? A. Well, I think just to look for seventy-five names through six months, I estimated that we could probably do—to locate or not locate seventy-five names for six months would probably take a twenty-five days, twenty-six days, I believe. The other test I said would take at least eighty days.

Q. Making the same determination for a thousand members for over four years would take considerably more? A. Yes, it would take a great deal more.

Mr. London: Thank you.

[1,548] Mr. Riddle: I have just one more question.

The Court: O. K.

Recross-Examination.

By Mr. Riddle:

Q. Sir, these forms and these sheets that you have over here identified representing the collections into the Political Fund? A. Yes, sir.

Q. They are prepared by and large by stewards, or people out in the field A. They are labeled "foremen" on the sheets.

Q. Yes. Now, back before the checkoff began, do I understand your testimony to be that you collected those forms and sheets and collections that the steward made out on the job? A. They were sheets showing how much they collected from each individual member on a job, and they were collected by the stewards.

Q. These are the regular dues and assessments? A. Regular dues and assessments.

Q. On sheets by the stewards out on the job? A. Yes.

Q. Now, did those collection sheets for the regular assessments and dues, did they compare and contain about the same information that these forms here have on the Voluntary Fund? [1,549] A. As I recall it, they were sim-

ilar. They showed the names of the men and the name of the steward and the name of the job.

Q. And how many hours worked? A. And the amount; well, sometimes just the amount collected, sometimes the amount of hours worked. Sometimes the days worked.

Q. They were identical to these, with the exception of this heading on the top? A. If you say so.

Q. Well, isn't that your recollection of it? A. I would say they were similar; very similar.

Q. One had "Voluntary Political Fund" and the other had "Pipefitters' 562 Assessment Sheet," or some such thing? A. If you say so, I accept it.

Mr. Riddle: All right.

The Court: Anything else?

Mr. Riddle: That is all.

The Court: All right. You will be excused.

Members of the Jury, we will have our morning recess. Bear in mind the admonition I have given you heretofore.

(Following a brief recess, the further following proceedings were had before the jury:)

Mr. London: May we approach the bench, Your Honor?

[1,550]. The Court: Sure.

(Thereupon the following colloquy ensued among the Court and counsel, at the bench, out of the hearing of the jury:)

Mr. Nangle: Your Honor, at this time the defendant would like to renew their previous motion for continuance to permit Mr. Shelton to complete his work on his records. It is apparent from his testimony had he been

able to complete his records, that the other information that is needed in this defense would have been available to us, and if a continuance is granted to us now, this information could be available in a period of thirty days or sixty days, Your Honor.

The Court: You mean I am to continue the trial?

Mr. Nangle: That's right, Your Honor.

Mr. London: Possibly after discussion with Mr. Shelton, we feel it could be a less period of time than Mr. Engle has indicated, and we feel the time is needed in view of his testimony that he was unable to complete all the work in order to give all the testimony he listed.

The Court: Certainly there is insufficient record made here for making such a continuance. It will be denied.

(Thereupon the trial was resumed before the jury as follows:)

The Court: Call your next witness.

[1,551]

LESTER W. CAJACOB,

being first duly sworn, testified in behalf of the defendants as follows:

Direct Examination.

By Mr. London:

Q. State your name, please, sir. A. Lester Cajacob, C-a-j-a-c-o-b.

Q. Sir, were you a member of Local 562? A. Yes, sir.

Q. Are you now retired, sir? A. Retired.

Q. While you were a member, sir, did you have occasion to contribute to the Voluntary Fund? A. I did.

Q. Were the contributions that you made into that Fund voluntary, sir? A. Absolutely.

Q. And, sir, while you were still working, did you have occasion to attend the meetings of the Voluntary Fund?

A. Yes, sir.

Q. And were they separate from the regular Union meetings?

Mr. Riddle: I want to object to that as being leading and suggestive, Your Honor.

The Court: Be sustained.

Q. (By Mr. London) I will rephrase it. Did you attend [1,552] meetings of the Voluntary Fund, sir? A. Yes, sir.

Mr. London: You may inquire.

Cross-Examination.

By Mr. Riddle:

Q. You paid your dues and assessments, I assume? A. Yes, sir.

Q. They were paid voluntarily also, weren't they? A. Dues and assessments?

Q. They were paid voluntarily? A. No, sir.

Q. Did they force you to pay them? A. That is compulsory, dues and assessments. If you remember, you have to keep the organization going.

Q. You didn't pay them voluntarily? A. I paid in the voluntary, but not dues and assessments.

Q. Oh. You don't think that you paid that voluntarily? A. No.

Q. Your dues and assessments? A. Oh, dues and assessments, yes.

Q. You paid voluntarily? A. It is not the Voluntary Fund though that is dues and assessments, if I—

Q. But you paid it voluntarily, didn't you? [1,553] A. Are you talking about the Fund or—

Q. No, I am talking about your dues and assessments.

A. Oh, absolutely.

Q. You paid into the Fund voluntarily? A. Yes, sir.

Mr. Riddle: That's all.

The Court: Is that all?

Mr. Randall: No further questions.

The Court: Step down.

(Witness excused.)

WILLIAM J. MURPHY,

being first duly sworn, testified in behalf of the defendants as follows:

Direct Examination.

By Mr. Randall:

Q. Would you state your full name, please? A. William J. Murphy.

Q. And where do you live, sir? A. 75 Willmore Road, St. Louis, Missouri.

Q. And, Mr. Murphy, are you a member of Pipefitters Local 562? A. Yes, I am.

Q. How long have you been a member? A. Twenty-seven years.

[1,554] Q. What is your present job? A. Powers Regulator Company; general foreman.

Q. Are you now contributing to the Pipefitters Voluntary Fund? A. No, I'm not.

Q. How long has it been since you made a contribution? A. I'd say almost two years; a year and a half, two years.

Q. Did you contribute prior to that time? A. Yes, I did.

Q. You contributed—by what means did you make your contributions? A. By checks.

Q. And who did you give them to, send them to? A. I mailed them to Pipefitters Voluntary Fund.

Q. And about how often did you send in a check? A. Every six months.

Q. Did you contribute the full amount, or did you do it intermittently? A. Intermittently; I was always a little behind.

Q. Now, since you have quit contributing, has anyone ever said anything to you about the fact you are not contributing? A. No, sir.

Mr. Randall: You may inquire.

[1,555]

Cross-Examination.

By Mr. Riddle:

Q. What caused you to all of a sudden stop paying? A. Well, I never was much for politics, and after President Kennedy was assassinated, my interest waned more, and finally I decided, after seeing some of the endorsements of the Fund were against my principles, it didn't make sense to contribute to one and vote for the other.

Q. So you just stopped? A. I just stopped.

Q. Now, who is your supervisor? A. I am the head fitter in the shop.

Q. Head fitter in the shop? A. Yes.

Q. How many other pipefitters are in that shop? A. Well, it varies. This time we have five; sometimes it goes as high as twenty, twenty-five.

Q. Do you make collections from these fellows? A. No, sir.

Q. Have you ever? A. No, sir.

Q. Are they paying into it? A. As far as I know, they are.

Q. Do you know Mr. Callanan? [1,556] A. Yes, sir.

Q. Have you ever explained to him why you stopped?
A. He never asked.

Q. Did you ever explain to him? A. No.

Q. Did you ever explain to anybody else? A. No, sir.

Q. Never explained to anybody else—— A. My wife.

Q. —before you got on the stand today, as to why you stopped? A. No.

Q. The very first time that you ever said the reason you stopped is because you didn't want to support the candidates? A. Yes, sir.

Q. And for the first time? A. As far as I know.

Q. Outside of your wife, you are telling that from the stand here this morning? A. Yes, sir.

Q. You didn't tell it to any of these lawyers before you came here? A. I believe I did; yes.

Q. Which one? [1,557] A. I don't know his name.

(Mr. Randall stood.)

Q. (By Mr. Riddle) Where did you go to tell him that?
A. At the hall.

Q. When was this? A. Thursday evening.

Q. Did you go to the hall for a particular reason? A. For that reason, I imagine.

Q. For that reason? A. Yes, sir.

Q. Well, now what do you mean "for that reason"? A. As to why I hadn't paid into the Voluntary.

Q. Who called you and asked you to come? A. One of the business agents.

Q. Which one? A. Virgil Walsh.

Q. Virgil Walsh? A. (Indicating yes.)

Q. He called you on the phone? A. Yes, sir.

Q. And what did he say to you in this conversation?
A. To be at the hall at 7:00 o'clock this evening.

Q. Did he tell you why you were supposed to come down there? A. No, sir.

[1,558] Q. How many others were at the hall that evening, that Thursday? A. Oh, quite a few; thirty, forty.

Q. When you got there, did you voluntarily state to the people there that you had stopped paying, and the reasons? A. Yes, sir.

Q. You told everybody at the hall? A. No, sir. Just this one gentleman here.

Q. Just one of the attorneys? A. Right.

Q. Did he tell you how he knew you had stopped paying? A. No, sir. We had had a meeting the evening before.

Q. What happened at that meeting? A. They asked for anybody who had not paid lately.

Q. Who all was at that meeting? A. General membership meeting.

Q. And when they asked that, you stuck up your hand? A. I went up forward after the meeting.

Q. How many others, besides you, went up? A. Oh, I don't know; quite a few.

Q. Were there others? A. Yes, sir.

Q. How many people were at the meeting? A. A thousand or so, I would say.

[1,559] Q. A thousand or so? A. Yes, sir.

Q. And out of the thousand, you were one that went up and stated that you hadn't been paying recently? A. Yes, sir.

Q. About how many other of you were there that fell in your category? A. What do you mean by my category?

Q. Out of a thousand, you said that some of—you and some others went up and told him that you hadn't been paying lately? A. There was a whole crowd around the

desk. I don't know who was up there for that purpose, or for any other purpose.

Mr. Riddle: I have nothing further.

The Court: Anything else of this witness?

Mr. Randall: I have no further questions. Nothing further.

The Court: OK.

Mr. London: May we approach the bench?

(Thereupon the following colloquy ensued among the Court and counsel, at the bench, out of the hearing of the jury:)

Mr. London: Your Honor, at this time we would again [1,560] request an instruction from the Court to the jury that there is nothing improper about an attorney interviewing a witness.

The Court: I am not going to tell them that.

Mr. London: We would like to make the request in view of the question on cross-examination, which would indicate there was some impropriety.

The Court: He answered. He had a perfect right to find out who he's talked to. I am not going to tell them that. I assume you are going to argue.

Mr. London: I can't hear you.

The Court: I assume that you are all going to make an argument in this case.

Mr. London: I don't know. I assume. I don't know about Mr. Nangle.

The Court: Well, I will assume at that time you will allude to it. I am not going to do anything about it. No.

Mr. London: Thank you.

(Thereupon the trial was resumed before the jury as follows:)

CORBAN MINTNER,

being first duly sworn, testified in behalf of the defendants as follows:

Direct Examination.

By Mr. Daly:

[1,561] Q. Will you state your name, sir? A. Corban Mintner.

Q. Where do you reside, Mr. Mintner? A. 3710 South Spring.

Q. And what is your business or your occupation? A. Right now I am retired.

Q. And prior to the time that you retired, what occupation did you follow? A. I was a fitter.

Q. And by that, you mean a pipefitter? A. Pipefitter.

Q. And did you belong to a local union, sir? A. I did.

Q. And what local union did you belong to? A. 562.

Q. And how long were you a member of Local 562? A. Twenty-seven years.

Q. Now, when did you retire, sir? A. September 1st, 19 and 66.

Q. All right. That is the last time you worked as a pipefitter, on September 1st, 1966? A. Right.

Q. Now, prior to the time that you retired, sir, were you familiar with the Voluntary Fund? [1,562] A. I was.

Q. And while you worked, did you contribute to the Voluntary Fund? A. I did.

Q. And were the contributions you made to this Fund, sir, were they voluntary? A. Absolutely.

Q. How did you contribute? Some of the time? All of the time? Most of the time? A. I hate to say, I missed some of the time; yes, sir.

Q. The times that you missed contributing, did anybody every talk to you about this? A. Absolutely not.

Q. Were you ever told that you had to pay this? A. No, sir.

Mr. Daly: Your witness.

Cross-Examination.

By Mr. Riddle:

Q. Sir, do you remember when your assessments went up to three and three-quarters per cent of your gross wages? A. I do not.

Q. Well, do you remember when your payments into the Voluntary Fund went down? A. I remember when they went down; yes, sir.

[1,563] Q. Well, do you recall that the payments into the Voluntary Fund went down the same time that your assessments went up? A. No, I don't.

Q. You don't recall that? A. No, sir.

Q. You say you missed a few payments? A. Yes; quite a few of them.

Q. Did you catch up on them? A. No.

Q. You didn't catch up on them? A. No.

Q. Sir, you retired when? A. 1966; September 1st.

Q. 1966? A. Yes, sir.

Q. When is the last payment you made into this Voluntary Fund? A. The last week I worked.

Q. When is the last? A. I imagine I paid—now, I wouldn't say for sure now. I never kept track of it.

Q. When is the last time you paid an assessment into the Union? [1,564] A. The last week I worked.

Q. An assessment? A. Yes, sir.

Q. You paid that for the last time? A. Yes, sir.

Q. When you worked? A. Yes, sir.

Q. And you paid into the Fund the last time you worked? A. I wouldn't say I paid in the Fund or not. I think I did. Yes, sir.

Q. The last week? A. Yeah.

Q. Did you pay the next week, the first week you were off? A. No, I didn't work.

Q. So you paid into this Fund when you worked? A. Yes.

Q. Voluntarily when you worked? A. Yes, sir.

Q. And haven't paid a penny into it since? A. No, sir.

Q. Did you ever pay into it when you weren't working? A. No, sir.

Q. Why? A. Why?

[1,565] Q. Yes. A. The only reason why I wasn't—I didn't feel like I had to, or wanted to, or I had the money.

Q. When you weren't working? A. Yes, sir.

Q. But when you were working, you felt like you should? A. Yes, I felt like I should.

Q. Yes, sir. When you stopped working, when you retired you stopped paying your assessments? A. Right.

Q. And you stopped paying into the Fund? A. Right.

Q. Were you ever foreman on a job? A. No, sir.

Q. Have you always been a member of 562? A. Twenty-seven years I have been a member; yeah.

Q. Sir, did your interest in politics cease the day you quit working and went on retirement? A. No, sir.

Q. Did you understand this Fund was to be used for political purposes for the benefit of society, and the country as a whole? A. Well, I felt like that; yeah. To the men that was friendly towards labor.

[1,566] Q. You don't feel that way anymore? A. I sure do.

Q. Why haven't you paid? A. Because I don't have the money, Mister.

Q. Yes, sir. A. That's the reason.

Q. Have you made any contributions to any political party since you went on retirement? A. No, sir. You don't do that on \$250.00 a month. You don't hardly make many—I wish I could though.

Mr. Riddle: I have nothing further to ask this witness.

The Court: Anything else?

Mr. Daly: No redirect examination.

(Witness excused.)

ALBERT LANG,

being first duly sworn, testified in behalf of the defendants as follows:

Direct Examination.

By Mr. London:

Q. State your name, sir. A. Albert Lang.

Q. Where do you live? [1,567] A. 7533 Buckingham Drive, Clayton.

Q. Mr. Lang, are you a retired member of Local 562? A. I am.

Q. And while you were active, sir, did you make contributions into the Voluntary Fund? A. I did.

Q. Were your contributions into the Fund voluntary, sir? A. Absolutely.

Q. Did you attend any meetings of the Voluntary Fund? A. Yes.

Mr. London: You may examine.

Cross-Examination.

By Mr. Riddle:

Q. Where did you go to attend these meetings of this Voluntary Fund? A. I believe it was at the Electricians hall.

Q. Where the meetings of the regular Union membership were held also? A. Meetings were called on a Sunday, as a rule.

Q. Of all the members of 562? A. I don't think all of them ever showed up at one time.

Q. But this is a hall where the regular meetings of the Union are held? A. Oh, yes.

[1,568] Q. Sir, you paid your dues and assessments all the time you were working, I assume? A. Yes.

Q. And you paid them voluntarily? A. Absolutely.

Q. And you paid into this Fund voluntarily? A. Right.

Mr. Riddle: I have nothing else to ask him.

The Court: Anything else?

Mr. London: No, sir.

The Court: Step down.

(Witness excused.)

GUSTAVE ENGEL,

being first duly sworn, testified in behalf of the defendants as follows:

Direct Examination.

By Mr. Randall:

Q. Mr. Engel, would you state your full name, please, sir? A. Gustave Engel.

Q. Where do you live, Mr. Engel? A. 2510 East Main, Belleville.

Q. Belleville, Illinois? A. Um hmm.

[1,569] Q. Are you a member of Pipefitters Local 562? A. I am.

Q. How long have you been a member, sir? A. Twenty-five years.

Q. Are you presently working? A. Yeah.

Q. And for whom are you working now? A. G. C. Shaw.

Q. And what is G. C. Shaw? A. Heating contractor.

Q. And how long have you been working for him? A. Fifteen months.

Q. And are you working as a journeyman? A. Yes.

Q. Are you presently paying into the Pipefitters Voluntary Fund? A. No.

Q. How long has it been since you made your last payment? A. About June of '67.

Q. And, sir, prior to that time, did you pay regularly into the Fund? A. No, I didn't.

Q. How did you pay? [1,570] A. It was a hit and miss proposition.

Q. Have you ever worked on construction jobs? A. Yes.

Q. What are some of the construction jobs you worked on? A. Missouri Baptist Hospital. This one on South Grand. What is the name of that?

The Court: Hospital?

The Witness: Yeah.

The Court: Incarnate Word?

The Witness: No, no, no. It is down there by the Pevely Dairy. Firmin Desloge.

Q. (By Mr. Randall) Firmin Desloge? A. Yes.

Q. Sir, when you worked on construction jobs, did you pay regularly or intermittently at that time? A. I don't remember that far back.

Q. You don't recall. Now, when you were behind, or since you have quit paying, has anyone ever spoken to you about that fact? A. Nobody ever approached me.

Q. Nobody ever asked you or spoke to you? A. Nobody asked me to come in and square up, or nothing like that.

Q. Did you talk to me and tell me the other night what [1,571] you testified to here today? A. Yes.

Q. And where did I question you, sir? A. If I paid regularly, or if I paid anything at all, or about when it was, if I could recall.

Q. Where did I question you, sir? A. Out——

Q. Where were you? Where did I see you? A. At 562 hall.

Q. At the hall, sir. And how did you happen to be at the hall there the other night? A. I was called.

Q. But did something occur prior to that time to cause you to appear there and be questioned by me? A. Not that I know of.

Q. Did you attend the meeting of the Union that week? A. Oh, I missed that last week. I was to the meeting in April.

Mr. Randall: I see. OK. You may inquire.

Cross-Examination.

By Mr. Riddle:

Q. Sir, do you know why you were called in? A. I haven't the least idea.

Q. Who called you in? [1,572] A. The contractor called and said they wanted to see me.

Q. Do you remember the man's name that called you?
A. The call didn't come direct to me. It was passed on to me.

Q. Who passed it on to you? A. The foreman.

Q. What is your foreman's name? A. Tom Lambridge.

Q. What did Mr. Lambridge tell you? A. He said to go into the hall after work; they wanted to have a little get-together. Have a talk.

Q. Did he tell you what it was for? A. He did not.

Q. Sir, you said that you had been working down at G. C. Shaw for about fifteen months? A. That's right.

Q. You say you haven't paid for the past fifteen months? A. I haven't paid since I worked for Shaw.

Q. Yes, sir. Is Shaw a construction company? A. Heating and air conditioning contractor.

Q. They don't do construction work? A. No.

Q. Are you a foreman? A. No.

[1,573] Q. Have you ever been a foreman? A. No.

Q. Who is the foreman on that job down there? A. Well, I worked for two of them in the last couple weeks. One is Bill Moody, and the other one was Tom Lambridge.

Q. Are there any other fitters on that job besides you?
A. Otto Dietrich.

Q. Otto Dietrich? A. Yeah.

Q. Just you two? A. No. There's three of us; sometimes four.

Q. Well, there's you and Otto Dietrich, and then the foreman? A. Bill Moody, who is in charge, and Tommy is there sometimes. He is riding foreman.

Q. You mean since you have been there, the foreman hasn't been around to make a collection? A. No.

Q. Prior to that time when you were on construction, you paid in to the foreman each month, did you not?

A. That's been a long time ago. They come around and ask you if you want to give a contribution. If you didn't have it, they didn't bother you.

Q. Sir, what was the job you worked on just before you [1;574] went to Shaw? A. Lutheran Hospital.

Q. Who was the foreman there? A. Tom Cohen.

Q. You made payments there? A. No.

Q. None at all? A. No. There was only two of us on that job. We was working on Lamson Tube Company.

Q. On the larger jobs that you worked on in the past, are those the ones you were working on when you made payments? A. Let me think once. Anybody that wanted, when Monday morning comes, if anybody wanted to donate to the Voluntary, they could, but they didn't bother you.

Q. But what I am asking you, sir, on the larger jobs that you worked on—— A. I did sometimes.——

Q. Sometimes you didn't, you say? A. No.

Q. What did you tell the foreman when he asked you for his money? A. I told him I didn't have it; short.

Q. Did he ask you, even though you didn't pay? A. He says, "Forget about it. I will catch you some [1,575] other time."

Q. All right. But nobody has been around to ask you since you have been on this small job? A. No.

Q. Is that the reason you haven't paid, because they haven't been asking you? A. I have been kind of behind the financial 8-ball.

Q. Did you tell anybody down at the hall that you were behind a financial 8-ball? A. No.

Q. Did you tell your foreman you were? A. Yes, I spoke to him about it about a year ago.

Q. Did you tell him about that in connection with why you weren't paying into the Fund? A. Yeah.

Q. Sir? A. Yeah.

Q. You wanted him to know for certain why you weren't paying in? A. I'll tell you, everybody works for Shaw sends their own in. There ain't no collector.

Q. You thought it was advisable to tell your foreman that you were having some financial difficulties? A. He asked me if I paid any in lately. I said, "No. [1,576] I have been kind of financially up against it."

Q. You mean the foreman came up to you? A. No. We was just sitting eating at noontime, just conversation, he asked me, and I said, "No. I have been kind of financially up against it."

Q. What did he say about that? A. Nothing.

Q. But you felt that there was some reason, or a reason for you to make an explanation why you hadn't been paying, didn't you? A. No. Just conversation, that's all I'd say.

Mr. Riddle: I have nothing further to ask.

The Court: Any redirect.

Mr. London: No.

The Court: Step down.

Mr. Riddle: Just one additional question.

The Court: All right. Resume your seat.

(The witness resumed the witness stand.)

Q. (By Mr. Riddle) Do you know how they got your name as being one of the people who hadn't paid in? A. I haven't got the least idea.

Q. Anybody ever tell you that they got your name from out of the records as a non-payer part-time? A. No.

[1,577] Q. Somehow they found out? A. It is news to me.

Mr. Riddle: That's all.

Mr. Randall: I now have a few questions.

Redirect Examination.

By Mr. Randall:

Q. Sir, how many people were there at the hall the night that I questioned you? A. I'd say there must have been at least fifty.

Q. And do you know how many of those people paid regularly, and how many of them don't? A. No, I don't.

Q. In other words, you don't know whether anybody got your name at all from the records, except that you were a member of the Local; isn't that correct? A. That's right.

Q. And the only way that I knew you didn't pay was because you told me.

Mr. Riddle: I will object to that. It would call for a conclusion of this witness.

The Court: Be sustained.

Mr. Randall: That's all.

The Court: Step down.

(Witness excused.)

[1,578]

HERBERT HINRICHS,

being first duly sworn, testified in behalf of the defendants as follows:

Direct Examination.

By Mr. Randall:

Q. Mr. Henrichs, would you state your full name, please, sir? A. Herbert Hinrichs.

Q. Hinrichs. Pardon me. Where do you live, sir? A. 5958 Sherry, St. Louis, Missouri.

Q. And are you a member of Pipefitters Local 562? A. Yes, sir.

Q. For how long have you been a member, sir? A. Close to twenty years.

Q. Now, what is your present employment? A. I'm a foreman at G. C. Shaw, Incorporated.

Q. For G. C. Shaw, Incorporated. Does a man named Gus Engel work for you? A. He works at G. C. Shaw.

Q. But he is under your supervision, or someone else's? A. Well, we are on different jobs, if that is what you mean. We have worked together a number of times. Right now he is on a different job.

Q. He is on a different job. All right. Now, sir, how [1,579] many men do you have under you at the present time? A. One. It has averaged from one to eight. At the present time, there is just one working with me.

Q. Just one. Now, have you ever collected for the Voluntary Fund from any of your men? A. No, sir.

Q. Have you paid into the Voluntary Fund? A. Yes, I have.

Q. And how have you made your contributions, sir? A. I always pay by check.

Q. And how often do you do that, sir? A. Well, it always varies. I might pay, let's say, I am paid up right now, and then I might wait possibly two months, three months, then I send in a check whenever, when you get around to it, or when you have a little surplus, you might say, and then again at times I have left it go as long as six, seven months, as well as I can remember.

Q. Has anyone ever spoken to you about being behind in your contributions? A. Never.

Q. Have your contributions been voluntary? A. Yes, been voluntary.

Q. Have you ever talked to any of the men under you about contributing to the Voluntary Fund? [1,580] A. No.

Mr. Randall: You may inquire. Pardon me. I have one more question.

Did I interrogate you the other night, sir? Did I question you the other night? A. You asked me a number of questions; yes.

Q. Did I ask you questions similar to what I asked you today? A. About the same thing.

Q. And you gave similar answers to me at that time? A. Approximately the same thing.

Mr. Randall: That is all. You may inquire.

Cross-Examination.

By Mr. Riddle:

Q. You say you are paid up now and current? A. Right, now? Well, to tell you the truth, I'd have to look at my last check stub. I know I am not paid up, because I haven't paid in the last couple months, no, so it would make me not paid up, if you want to call it paid up.

Q. Yes. Do you know about how much you owe? A. I'd have to take a guess, because I don't know when the—I have to look at the checkbook to find out when I paid last. I would say that just a rough guess, if that is what you'd like to have, would be three months.

[1,581] Q. About three months behind? A. Something like that.

Q. About how much money will that be? A. Well, I pay two and a half a week, which would be \$10.00 a month.

Q. So you owe about \$30.00 now? A. It's a guess, yes.

Q. And the rate of your payments now is what? Fifty cents a day, you say? A. Yes, sir, that is what I pay.

Q. Do you remember when it was a dollar a day? A. Yes, I do.

Q. Do you remember when it was decreased to fifty cents a day? A. To tell you the truth, I can't tell you exactly when; no.

Q. Do you remember when your assessment, your regular assessment, was increased from two point something up to three point something? A. No. I'd have to look at old check stubs to tell you exactly that answer. It is just like Social Security. It goes up. You don't look at that all the time either.

Q. Do you pay your assessments by check? A. No. That comes right out of my—my employer [1,582] withholds that. That is the reason why I say it is like Social Security, you don't—

Q. You didn't pay too much attention to how much or when that was actually increased? The assessments were taken out of your pay? A. At the time it went up, I say it was increased, and from then on, you know, it is increased. I didn't make a mental note of what date it was increased.

Q. Sir, do you recall that your regular assessments went up at the same time that your Voluntary payments went down? A. That sort of does ring a little bell now that you have mentioned it. I couldn't say for sure if that's the way it happened; no.

Q. The net, the end result of that was it wasn't costing you any more to work, was it? A. I have never stopped to figure that out, really.

Q. Sir, you pay your assessments and your dues voluntarily, I guess? A. My assessments and dues come right out of my check.

Q. But you voluntarily consent to it? You sign a form that says they can withhold those dues and assessments, your employer can? A. My employer withholds them. I don't remember if I filed a form for that or not.

[1,583] Q. You don't remember filing a form or consent, written consent? A. I don't remember one; no. There very possibly might have been one, but you don't remember all those incidentals. You know you are going to pay it, so you might have filed a form. It is one of those things you are going to have to pay. If it is assessments or dues that goes to Washington, you know for a fact that you are going to have to pay it.

Mr. Riddle: I have nothing further to ask this witness.

Mr. Randall: Nothing further, Your Honor.

The Court: Step down. Call your next witness.

(Witness excused.)

FRANCIS X. MOHAN, SR.,

being first duly sworn, testified in behalf of the defendants as follows:

Direct Examination.

By Mr. Daly:

Q. Would you state your name, please? A. Francis X. Mohan, Sr.

Q. And where do you live, Mr. Mohan? A. 16 Manor Drive.

Q. And where is that? A. Florissant, Missouri.

[1,584] Q. Are you buying that home out there? A. Buying it; yes, sir.

Q. Are you presently a member of Local 562? A. I am.

Q. And how long have you been a member of Local 562? A. Since 1955.

Q. And what did you do prior to that time, Mr. Mohan?
A. I was a police officer in the City of St. Louis.

Q. How long were you a St. Louis police officer? A. Six
and a half years.

Q. Now, you are, at the present time, a member of Local
562? A. I am.

Q. And are you familiar with the Voluntary Fund, Mr.
Mohan? A. Yes, sir.

Q. And did you sign a Voluntary Contribution card?
A. Yes, sir.

Q. And, sir, do you contribute to the Voluntary Fund?
A. I do.

Q. And do you make those contributions voluntarily?
A. Yes, sir.

Q. Has anyone ever told you that you had to contribute
to this Fund? [1,585] A. No, sir.

Q. Has any of the defendants, Mr. Callanan, or, Mr.
Lawler, or Mr. Seaton, ever told you that you had to make
these contributions in order to work? A. No, sir.

Mr. Daly: You may inquire.

Cross-Examination.

By Mr. Riddle:

Q. Sir, do you know what your "contribution" now is
per day? A. Sorry, sir.

Q. Do you know what your "contribution" is per day
now? A. It is 50 cents a day. Is that what you mean, sir?

Q. Yes. Who told you it was 50 cents a day? A. I don't
know. That is what we have all been giving. In fact, we
voted on it at a meeting.

Q. Union meeting? A. No, sir. Voluntary Fund meeting.

Q. Do you remember when that vote was? A. Well,
there was—I think it was a meeting in '63, and to be

honest, we changed it a couple times, and I am not sure what date it was on; no, sir.

Q. Well, the most recent change, do you recall that?
A. Yes, sir. That was at the Electricians hall.

[1,586] Q. That was a change up or down? A. Change down.

Q. Down to 50 cents? A. Yes, sir.

Q. Before that time it had been a dollar? A. Yes, sir.

Q. It had been a dollar for some year and a half or so, or possibly longer? A. I wouldn't remember the exact length of time, but it was a dollar for a while. I know that.

Q. Do you remember that your assessments went up at the same time that your payments into this Fund went down? A. I believe so, sir.

Q. What was the net amount that you were paying in afterwards as compared with before? A. Assessments, or Voluntary Fund, or which?

Q. All told? A. Now we pay three and three-quarters per cent assessments, we pay three dollars and a half a month dues, and we give fifty cents a day to the Voluntary Fund.

Q. And that totals about how much? Do you know?
A. About \$10.00 a week.

Q. About \$10.00 a week is what the total amount to you is? A. Ten or eleven; something of that nature.

[1,587] Q. Sir, wasn't it about \$10.00 a week before the change in the rate structure? A. I believe so. It was a dollar a day, would be \$5.00 a week; yes.

Q. Plus the assessment? A. Yes, sir.

Q. Totals about \$10.00 before the change in rate structure in January of 1966, and about \$10.00 thereafter? A. I believe so.

Q. So the assessment was just pumped up a little bit, and the Voluntary Fund was just pumped down a little bit.

Mr. Daly: Your Honor, I object to that term, and ask it be stricken.

Mr. Riddle: It is cross-examination.

The Court: Well, it is cross-examination.

Mr. Riddle: The form of the question may be a little bit off, Your Honor. I will withdraw it.

Mr. Daly: I will allude to, I will agree with Mr. Riddle's objection to the form, Your Honor.

The Court: I beg your pardon?

Mr. Daly: I will agree with Mr. Riddle about the form and——

The Court: I will move on it to the extent that you give me a legal reason, I will be happy to listen to it. The comment, [1,588] I will not.

Mr. Daly: Let the record show my objection to the form of the question.

The Court: It is withdrawn. It is moot now.

Q. (By Mr. Riddle) Sir, were you pleased when the contributions were decreased from a dollar down to fifty cents? A. Well, I have got to be frank. I would give a dollar a day today.

Q. Why don't you give a dollar a day today? A. Because I don't want to get out of line with the fellows.

Q. You don't want to get out of line? A. I'm sorry. If I give a dollar a day the other fellows on the job figure they will have to give a dollar.

Q. Sir, have you ever given more than 50 cents a day? A. Yes, sir.

Q. Since it was reduced to 50 cents, since January 1 of 1966, have you ever paid a penny in more than 50 cents? A. I don't believe so.

Q. Have you ever paid any more as a regular assessment than what everybody else was paying? A. On my assessment?

Q. Yes. A. No. I pay the assessments three and three-quarters [1,589] per cent?

Q. Just like everybody else pays? A. Yes, sir.

Q. Sir, do you—well, I'll strike that. I have nothing further to ask this witness.

The Court: Any redirect?

Mr. Daly; No redirect.

The Court: Step down. Call your next witness.

(Witness excused.)

WILLIAM ULRICH,

being first duly sworn, testified in behalf of the defendants as follows:

Direct Examination.

By Mr. London:

Q. State your name, sir. A. William Ulrich.

Q. Where do you live, sir? A. 3708 Winnebago.

Q. Mr. Ulrich, are you a retired member of Local 562?
A. I am.

Q. Now, when you were—Before your retirement, sir, did you contribute into the Voluntary Fund? A. I did.

Q. And were those contributions voluntary, sir? [1,590]
A. They were.

Q. And did you attend some of the Voluntary Fund meetings, sir? A. I did.

Q. Did anybody ever tell you that you had to contribute to the Fund? A. Never.

Q. Did you always contribute to the Fund, or were there times that you didn't contribute? A. No. I contributed faithfully.

Q. You contributed only when you were working, or— A. No—well, yeah. But, I mean, I worked for a small contractor, and if I'd lose a half day, or a day, I still paid for that.

Q. In other words, even though you might not work a full eight-hour day, you'd still make a contribution that you had agreed to make; is that correct, sir? A. That's right.

Mr. London: You may inquire.

Mr. Riddle: I have just one or two questions of him.

Cross-Examination.

By Mr. Riddle:

Q. You paid in, you say, faithfully? A. I did.

[1,591] Q. You faithfully paid all your dues and assessments, didn't you? A. The dues too.

Q. You voluntarily paid them? A. I had to pay the dues.

Q. Did you enjoy paying into this Fund all the time? A. I most certainly did.

Q. Weren't you happy when the dues were decreased? A. Not necessarily. I wouldn't say so. I think that it was a good thing to pay the full amount.

Q. Do you remember when it was a dollar a day? A. I remember it very well.

Q. Do you remember when it was reduced to 50 cents a day? A. I do.

Q. Did you continue to pay a dollar, or just 50 cents? A. No, I paid the 50 cents.

Q. Why didn't you pay more if you thought it was a good thing? A. Well, that's what everybody else was doing.

Q. This is what you were told to pay, because you were told what the rate was, isn't it? A. Well, we were told it was 50 cents then. Yes.

Q. And you paid faithfully right along? (No reply.)

[1,592] Mr. Riddle: I have nothing further.

Mr. Daly: No redirect examination.

The Court: All right. Call the next one.

(Witness excused.)

PATRICK JOSEPH HICKEY,

being first duly sworn, testified in behalf of the defendants as follows:

Direct Examination.

By Mr. Daly:

Q. State your name, please? Patrick Joseph Hickey.

Q. Where do you live, Mr. Hickey? A. 4508 St. Leo, St. Ann.

Q. With whom do you live? A. I am sorry.

Q. With whom do you live there? A. My wife and six children.

Q. I see. Now, are you at the present time, a member of Local 562? A. I am.

Q. Move back just a bit, you won't hit that.

How long have you been a member of Local 562, Mr. Hickey? A. Approximately twenty-three years.

[1,593] Q. And you also hold some elective office in the State of Missouri? A. Yes, sir, I do.

Q. What office is that? A. I'm the State Representative from the Thirty-First Legislative District.

Q. That comprises the area of approximately where you live? A. Close to the Airport in St. Louis County.

Q. Are you familiar with the Voluntary Fund? A. Yes, sir.

Q. And have you signed a Voluntary Contribution card? A. I have.

Q. And do you contribute to this Fund, Mr. Hickey? A. I do.

Q. How do you make your contributions? A. I have made some contributions in cash, and some contributions in check.

Q. Has anyone ever told you that you had to contribute to this Fund? A. Absolutely not.

Q. Has anyone ever told you if you didn't contribute to this Fund, you wouldn't work? A. Absolutely not.

[1,594] Q. He is your witness.

Cross-Examination.

By Mr. Riddle:

Q. Sir, do you contribute into the Fund when you aren't working? A. Into the Voluntary Fund?

Q. Yes. A. No, sir.

Q. Only when you work? A. Only when I work.

Q. And you pay into it voluntarily? A. Yes, sir.

Q. You pay your assessments and dues voluntarily? A. No, sir. That is mandatory.

Q. That is mandatory. You don't voluntarily pay them? A. I am sorry. I didn't understand you.

Q. Your dues and assessments, you pay them voluntarily too, don't you? A. My dues and assessments?

Q. Yes. Don't you voluntarily pay them? A. No, sir. They are mandatory. I have to pay dues and assessments.

Q. I see. You pay them just when you work? A. No, sir. My dues are based on a monthly basis.

[1,595] Q. Which are assessments? A. Sir?

Q. Your assessments are—— A. Are based on my wages.

Q. So you pay your assessments when you work, and you pay into the Political Fund when you work? A. I'm sorry.

Q. I say you pay your assessments when you work, and you pay into the Political Fund when you work? A. I pay my assessments, which are mandatory, when I work.

Q. Right. Then—— A. My Voluntary Fund I pay when I work.

Q. Right. And your payments in the Voluntary Fund are 50 cents a day now? A. Into the Voluntary Fund, the payment is 50 cents for eight hours.

Q. Do you know what your assessment rate is now? A. Its—the assessment rate is three and three-quarters per cent of my—it is deducted by the contractor.

Q. Do you know what that amounts to per day on an 8-hour day? A. I'm not too good at arithmetic, Mr. Riddle.

Q. About a dollar and a half [1,596] A. As I say, I'm not too good with arithmetic.

Mr. Riddle: I have nothing further.

The Court: Anything else? Step down.

(Witness excused.)

FRED A. GERDING,

being first duly sworn, testified in behalf of the defendants as follows:

Direct Examination.

By Mr. Randall:

Q. Mr. Gerding, would you state your name, please, sir?

A. Fred A. Gerding.

Q. Where do you live? A. 6771 Vernon.

Q. What city? A. University City.

Q. Are you a member of Pipefitters Local 562? A. I am.

Q. How long have you been a member? A. Two years.

Q. And prior to that time, prior to becoming a member of 562, did you do any work under the jurisdiction of Pipefitters Local 562? A. I did.

Q. For how long? [1,597] A. Two years.

Q. Now, during that two years you were working under the jurisdiction of 562 before becoming a member, did you contribute to the Voluntary Fund? A. Part-time.

Q. How much did you contribute during this two-year period? A. Oh, I'd say less than \$80.00.

Q. \$80.00 in the two years? A. Yes, sir.

Q. Then you became a member, and since you have been a member, have you contributed to the Voluntary Fund? A. Yes, I have.

Q. Have you contributed regularly since you became a member? A. No, sir.

Q. And how do you make your contributions? A. By check, or by cash.

Q. And on what jobs have you worked, sir, since starting back, before you became a member? A. I worked for Shure-Richardson. I worked for Hussmann, for Bridges

& Gerald, for Climate Service Company, and for Climate Engineering.

Q. And since you have become a member, whom have you [1,598] worked for, or did you cover all of them?

A. That is approximately all of them.

Mr. Randall: You may inquire.

Cross-Examination.

By Mr. Riddle:

Q. Sir, what local were you a member of before you became a member? A. 581.

Q. 581? A. Yes, sir.

Q. Where is that? A. Hannibal.

Q. And when did you become a full member of 562?

A. April of '66.

Q. April of '66? A. Yes, sir.

Q. Before you became a member, do you remember what you were paying into this Fund each day? A. Into the Voluntary Fund?

Q. Yes. A. Two dollars a day, when I paid.

Q. And just as soon as you became a member, what did you pay? A. Fifty cents a day.

[1,599] Q. Is there any reason why you, all of a sudden, decided to pay less, or pay 50 cents rather than \$2.00? A. It was voted at a meeting that the members pay 50 cents, and the out-of-town pay \$2.00.

Q. Was it voted at a meeting just like the assessments are voted? A. Assessments aren't voted at a meeting.

Q. They aren't? A. No. As far as I know, they are not.

Q. Well, do you know how your assessments got to be where they are now? A. No. To be honest with you, I don't.

Q. Did you, as a member, have a voice in voting what the assessment is? A. I do.

Q. Sir? A. I do.

Q. Well, my question then again to you is this: Were the assessments voted by the members, just like the decrease was voted? A. I really couldn't answer that, sir. I don't remember that.

Q. Well, did it cost you more to work per day before you became a member of Local 562? [1,600] A. I don't quite understand that question.

Q. Well, you were paying \$2.00 a day when you were a non-member. Now then, you are paying 50 cents a day. My question is did it cost you less to work per day after you became a regular member? A. Well, my assessments are taken out of my check.

Q. So you don't know what they are? A. It's three and a half per cent out of my check. That would roughly work out to the same amount.

Q. About a dollar and a half a day for assessments? A. Approximately.

Q. So it cost you just about the same then? A. That's true.

Mr. Riddle: That's all.

(Witness excused.)

JOHN C. LAIRD,

being first duly sworn, testified in behalf of the defendants as follows:

Direct Examination.

By Mr. London:

Q. State your name, sir. A. My name is John C. Laird.

Q. Where do you live? A. Cape Girardeau, Missouri.

[1,601] Q. Are you a member of Local Union 562? A. Yes, I am.

Q. Are you familiar with the Voluntary Fund? A. Yes.

Q. Do you contribute to the Voluntary Fund? A. Very infrequently.

Q. Are you working regularly? A. Yes, sir.

Q. When you have not contributed to the Fund, have you lost any work? A. No, sir, I haven't lost any work in thirteen years.

Mr. London: You may inquire.

Cross-Examination.

By Mr. Riddle:

Q. You live at Cape? A. Yes, sir.

Q. But belong to 562? A. Yes, sir.

Q. Did you ever belong to 318 down there? A. No, sir.

Q. How long have you lived in Cape? A. I have been living here four years this October.

Q. In Cape? A. Yes, sir.

[1,602] Q. Sir, you have paid into the Fund, I guess? A. Some; not too much. I paid just infrequently. When I have a little family expenses and trouble, I refrain from paying, because I think my family needs it more than the Voluntary Fund needed it at that time.

Q. Do you remember who your foreman was on any occasion when you didn't pay? A. My foreman was Bill Murphy.

Q. What job was Mr. Murphy on? A. He was riding boss for Powers Regulator Company.

Q. What was that construction project known as? A. I was on all projects. I was working out of the shop of Powers Regulator Company in St. Louis, Missouri. We do quite a few different jobs. I was all over; no special one job, you know.

Q. You just weren't on a construction job working. You worked out of the shop here in town? A. Yes, sir.

Q. Well, at any time, did you ever work on a construction job like Tom Sauk or—— A. The big jobs, no, sir. I worked mostly small contractors.

Q. Small contractors? A. Most of the time; yes, sir.
[1,603] Q. Did anybody ever come around and collect from you while you were on a job? A. Yes, sir.

Q. What jobs were they? A. That was at Pilot Knob, Missouri.

Q. How long were you there? A. Approximately seven months.

Q. Who was your foreman there? A. Jim Polito.

Q. Polito? A. Yes, sir.

Q. Now, while you were working on that job for Mr. Polito, you paid every week, didn't you? A. Yes, sir, I sure did, because I am in better shape since then.

Q. Sir? A. I have been paying regular for over a year now, because my financial status is a lot better now. I had a lot of illness in my family, and that is the only reason I didn't pay it, but I have never been punished for it either.

Q. On this job when Mr. Polito was running it, there were several hundred people working there? A. Yes, sir, there was about 150 men.

Q. And you paid regularly every Monday morning? [1,604] A. Sometimes I didn't show up on Monday morning, I'd pay it when I came in, whatever day it was.

Q. What other large construction jobs have you been on? A. That is the only large one I have been on. There was another one I paid to, which was with General Installation, on the turbine down in Cape Girardeau. I paid to that one there.

Q. How many people worked on that job? A. Twenty-six men.

Q. And you paid regularly when you were on that one?
A. Yes, sir, I did.

Q. And other large ones? A. No. No real large ones;
no, sir.

Q. Well, then is it your testimony that you paid on the
larger ones, but you didn't pay on the small jobs? A. My
testimony is I paid when I felt like paying.

Q. My question, sir, is on these two you told us about,
one is the large job down at Pilot Knob? A. Yes, sir.

Q. You testified you paid there all the time? A. Yes, sir.

Q. Another large job was for General Installation? A.
Yes, sir.

Q. And you paid there all the time? A. Yes, sir.

[1,605] Q. And you paid there all the time? A. Yes, sir.

Q. All right. Were there any other large jobs? A. No,
sir. But I am paying on the job I am on now, and it is
not large.

Q. I am asking you are there any other large jobs you
worked on? A. Yes, sir. I worked on one large job when
I was an apprentice, and that was at the Jewish Hospital
in 1955.

Q. When you were an apprentice? A. Yes, sir.

Q. Did you pay when you were an apprentice? A. No,
sir.

Q. Any other large jobs besides those three that you
mentioned? A. It depends what you call large. Do you
mean ten men, five men, fifteen, twenty? I have been on
jobs there have been ten men, some four, some two.

Q. Let's use the figure twenty-five. A. Twenty-five men?
No, sir. I think that is the only job there has been twenty-
five men on.

Q. That one you just mentioned, the one at Pilot Knob
and the one at Jewish Hospital? A. Yes, sir.

[1,606] Q. And you paid on two of those, or two of them, and one you didn't pay because you were an apprentice?
A. Yes, sir.

Q. These larger jobs, the foreman or steward came around and made the collections? Did they not? A. We made them through the foreman, normally.

Q. Well, the foreman came around and made the collections each week? A. Not always came around. I went to him once in a while too.

Q. When you weren't going to him once in a while, he came to you? A. Naturally, sir. He knew where we were.

Q. Sir, on these smaller jobs, how many people were working on them? A. I worked as many as ten, and as little as two of us.

Mr. Biddle: I have nothing further to ask him.

The Court: Any redirect?

Mr. Daly: No, Your Honor.

The Court: Step down.

(Witness excused.)

GERALD B. ROBERTS,

being first duly sworn, testified in behalf of the defendants as follows:

[1,607]

Direct Examination.

By Mr. Daly:

Q. State your name, please. A. Gerald B. Roberts.

Q. Where do you reside, Mr. Roberts? A. 1412 Lindenthal, Highland, Illinois.

Q. And are you a member of Local 562? A. Yes, I am.

Q. How long have you been a member of that Local, Mr. Roberts? A. Since the 16th of February, 1949.

Q. All right. Now, are you familiar with the Voluntary Fund? A. I am.

Q. Do you, at this time, contribute to the Fund? A. No, I do not.

Q. And have you ever contributed to the Fund? A. Yes, I have; on two occasions.

Q. I see. Has anyone ever told you you had to contribute to the Fund? A. No, sir, they have not.

Q. You never lost any work as a result of your not contributing to the Fund? A. No, I have not.

[1,608] Q. Why do you not contribute to the Fund, Mr. Roberts? A. Because my views differ from the present administration in many ways in foreign policy, in the war in Vietnam, and on the home front.

Q. What political party do you belong to? A. I belong to the Republican Political Party.

Q. Is this the reason you don't contribute to the Fund? A. That is a contributing factor; yes, sir.

Q. And have you always worked steady? A. Constantly.

Mr. Daly: Your witness:

Cross-Examination

By Mr. Riddle:

Q. Sir, you live in Highland? A. Yes, sir.

Q. Who do you work for now? A. I work for Honeywell, Incorporated.

Q. And where are they located? A. At 2416 Hampton Avenue, St. Louis.

Q. Sir, how long have you worked for Honeywell? A. Approximately six years.

Q. Who did you work for before you worked at Honeywell? A. Well, I worked for West County Piping, Eichler Corporation, Shure-Richardson, to name a few.

[1,609] Q. Now, this Honeywell Company we are speaking of this isn't construction work that you do for them? A. No, it isn't.

Q. Now, how many—Are you a foreman? A. No, sir, I am not.

Q. How many other pipefitters worked down there with you? A. I'd say approximately between twenty and twenty-five.

Q. These are sort of permanent employees of Honeywell? A. More or less.

Q. You don't get assigned around from job to job now from the Union hall? A. No.

Q. Are the other pipefitters down there members of Local 562? A. I think most of them are. I think there may be a couple of members working for them out of the Cape Girardeau local.

Q. You haven't been assigned to a job out of the Union hall here for the past six years? A. Yes, I have.

Q. I thought you were working at Honeywell for the past six years? A. I have been. I said there was two occasions that I didn't.

[1,610] Q. You mean two occasions in the last six years that you haven't worked for Honeywell? A. Yes, sir.

Q. When were those occasions? A. One of them was a year or a year and a half ago that I worked at the powerhouse up at Portage des Sioux for a week.

Q. One week? A. For about a week, or approximately a week.

Q. All right. A. Another time was this summer when I worked at the old Scullin Steel Plant, or Gateway Ammunition for approximately a week.

Q. Any other time? A. No, sir.

Q. Were you on vacation during those weeks, the reason you were? A. No, sir. We were on strike.

Q. Oh, you were on strike down at Honeywell? A. Yes, sir.

Q. Sir, on the week that you were working down at Gateway Ammunition, did you make a contribution that week? A. Yes, sir, I did.

Q. Yes, sir. What about the week that you worked at the power plant at Portage des Sioux? Did you make a contribution [1,611] that week? A. I think that I did. I'm not sure of that.

Q. On both occasions you were assigned out of the Union hall for those jobs? A. I was.

Q. Yes, sir. Now, sir, why did you make a contribution on those two jobs and for those two weeks? A. Mainly because the assessments and dues of our local are voted on and also are stable and our donations, or our assessments. In other words, they can't go up and down unless it is voted on by the membership. The officers of this Local went to a great deal of trouble and time to see that we were employed during the time of the strike, or the time of these two particular strikes. I felt, in some small way I could show my appreciation for this.

Q. Yes, sir. Did you show your appreciation for this on any other occasion, other than those two weeks? A. Not that I can recall.

Q. Yes, sir. Sir, are you telling this Court and jury that you only had consideration for that effort and for that Fund on the two occasions only that you worked and were assigned there by the Union hall? A. Yes, sir. That's true.

Q. Sir, didn't you feel that you had an obligation to [1,612] pay this into the Voluntary Fund for those two weeks? Isn't that the reason why you paid it? A. No, sir, I did not.

Q. Well, why did you decide to pay it for those two weeks, and those two weeks only? A. I just told you a moment ago.

Q. Yes, sir.

The Court: Any redirect?

Mr. Daly: No, Your Honor.

The Court: All right. Step down.

(Witness excused.)

RICHARD K. HARRELL,

being first duly sworn, testified in behalf of the defendants as follows:

Direct Examination.

By Mr. Randall:

Q. Mr. Harrell, would you state your full name, please?

A. Richard Kindall Harrell.

Q. Where do you live, sir? A. 1336 Valiant Drive, Fenton.

Q. Are you a member of Pipefitters Local 562? A. Yes, sir.

Q. How long have you been a member? A. 1945.

[1,613] Q. Since 1945? A. Yes, sir.

Q. Now, have you contributed to the Voluntary Fund? A. I have, at times; yes, sir.

Q. Have you contributed regularly or intermittently, or in— A. Intermittently.

Q. Have you missed any work? A. Only when I was sick, or when I wanted to.

Q. Anyone ever speak to you about the fact that you weren't contributing regularly? A. Never.

Mr. Randall: You may inquire.

Cross-Examination.

By Mr. Riddle:

Q. Mr. Harrell, who are you working for now? A. A&P Grocery Company.

Q. How long have you been working for them? A. Going now onto three years; I have been with them twice.

Q. Before working for A&P, who were you working for? A. R. G. Berger & Company.

Q. What kind of business are they in? A. Construction business. Pipefitting.

[1,614] Q. What jobs did you work on for them? A. Well, several different jobs. Offhand it was a church job and supermarket job, National Food Center, and I don't remember just how many different jobs; quite a few jobs. He is a small contractor.

Q. He is a small contractor? A. Yes, sir.

Q. How many were working for him? A. At that time, I think it was about five.

Q. Five people? A. Yes, sir.

Q. How many pipefitters were working with you at the A&P Grocery? A. There's five.

Q. Five? Sir, have you been assigned out of the Union hall? During the whole three years that you were at A&P, had you been assigned to any other jobs other than the one at A&P? A. I was laid off at A&P for a short period of three months, due to service work being slack.

Q. Did the Union assign you out to another job? A. Yes, sir.

Q. What job did you go to? A. General Installation.

[1,615] Q. Where? A. Hussmann Manufacturing Plant.

Q. How long were you there? A. A little over three months, if I remember correct.

Q. Who collected your payments while you were out there? A. When I paid them, I forgot the fellow's name now. I usually went up and gave it to him, the Voluntary.

Q. Did you miss any payments when you were out there? A. I did; yes, sir.

Q. Sir? A. Yes, sir.

Q. Are you sure about that? A. Yes, sir.

Q. How many did you miss? A. I think I missed two while I was out there.

Q. Did you make them up? A. Sir?

Q. Did you make them up? A. No, sir.

Q. Since you have been working at A&P, how many have you missed? A. Quite a few. I had a lot of sickness and trouble, and I only paid when I didn't have an obligation.

Q. How do you pay your dues or into this Fund when you [1,616] are out at A&P? A. I mail it in.

Q. Mail it in? A. Yes, sir.

Q. You say you did have some sickness? A. Yes, sir.

Q. Did you tell any of the people at the Union that you had some sickness and some hardships? A. No.

Q. You didn't tell any of them that? A. I didn't.

Q. You didn't tell your foreman that? A. No. My foreman—I just mailed mine in. My foreman never asked me for it.

Mr. Riddle: I have nothing further of this witness.

The Court: Any redirect.

Mr. Randall: No.

The Court: Members of the Jury, we will recess now for lunch until 2:00 o'clock. Bear in mind the admonition I have given you heretofore.

(Thereupon at 12:55 p. m., court was in recess for lunch until 2:00 p. m.)

[1,617] Monday, September 16, 1968.

Afternoon Session.

JOSEPH W. UNGERER,

being first duly sworn, testified in behalf of the defendants as follows:

Direct Examination.

By Mr. Randall:

Q. Mr. Ungerer, would you state your full name, please, sir? A. Joseph W. Ungerer.

Q. Where do you live? A. 1420 Bob-O-Link, Florissant, Missouri.

Q. Are you a member of Pipefitters Local 562? A. Yes, sir.

Q. Have you contributed to the Pipefitters Voluntary Fund? A. At one time, I did.

Q. Are you contributing at the present time? A. No, sir.

Q. How long has it been since you made a contribution? A. Approximately two years, or better.

Q. Why did you quit paying, sir? A. Well, I have children going into college, two boys going into college, and I just needed my money, couldn't afford to.

[1,618] Q. Has anybody said anything to you about your not contributing? A. No, sir.

Mr. Randall: You may inquire.

Cross-Examination.

By Mr. Riddle:

Q. What was the date that you stopped paying? A. I can't give you that offhand.

Q. What kind of work do you do now? A. Pipefitter.

Q. For whom? A. Guaranteed Heating & Engineering Company.

Q. How long have you employed by them? A. Thirteen years.

Q. For the same company? A. Yes.

Q. Have you worked for them regularly and consistently for thirteen years? A. Yes, sir.

Q. You haven't been assigned out of the hall for a job then in thirteen years? A. No, sir.

Q. Sir, when you made your payments, how did you make them? [1,619] A. By check.

Q. Sir, when you ceased making your payments, who did you talk to about your financial situation? A. No one.

Q. No one? A. No, sir.

Q. Did you ever attend any union meeting after that?
A. Oh, yes.

Q. You did? A. (Indicating yes).

Q. About how long was it when you stopped? A. I paid in approximately a year and a half.

Q. You paid in a year and a half? A. Yes, sir.

Q. You haven't worked on a construction job in thirteen years that you—— A. Oh, regularly.

Q. Well, Guaranteed Heating & Engineering Company? A. Yes, sir.

Q. But they had been your sole employers during the whole period? A. As a 562 member.

Mr. Riddle: I have nothing further.

The Court: Anything else? Step down.

(Witness excused.)

[1,620]

ROBERT A. YOUNG,

being first duly sworn, testified in behalf of the defendants as follows:

Direct Examination.

By Mr. London:

Q. State your name, sir. A. Robert A. Young.

Q. Where do you live, Mr. Young? A. 3500 Adie Road, St. Ann.

Q. Mr. Young, are you a member of Pipefitters Local 562? A. I am, sir.

Q. Are you, sir, presently holding any elective office in the State of Missouri? A. I hold two.

Q. How many offices do you hold, sir? A. I am Democratic Committeeman of Airport Township. I am the State Senator of the Twenty-Fourth District, and I hold another post. I am chairman of the Second Democratic Congressional District.

Q. Mr. Young, are you familiar with the Voluntary Fund? A. I believe that I am, sir. I'd say yes.

Q. Have you contributed to the Voluntary Fund? A. Yes, sir, I have.

Q. Have your contributions to the Fund been voluntary? A. Yes, sir.

[1,621] Q. Has anyone ever told you that you had to contribute to the Fund in order to work on a 562 job? A. No, sir.

Q. Have you ever attended any meetings of the Voluntary Fund? A. As many as I could possibly make, sir.

Mr. London: Thank you. You may inquire.

Cross-Examination.

By Mr. Riddle:

Q. Sir, what rate of payment do you make into the Fund? A. At the present time, sir?

Q. Yes. A. Fifty cents a day.

Q. Do you make that when you work? A. I make it all the time, sir.

Q. Even when you are not on the payroll, you make it? A. Yes, sir.

Q. How many payrolls have you been on construction jobs under the jurisdiction of Local 562 in the last year?

A. How many jobs, sir?

Q. Yes. A. You mean like four or five different jobs?

Q. Yes. A. Yes, sir, I have.

[1,622] Q. Like working as a pipefitter? A. Yes, sir. Would you like me to name a few that I have been on?

Q. Yes, if you would, please. A. The St. Louis State Hospital on Arsenal Street; the Lansdowne Medical Center, at Lansdowne and Chippewa, where I am presently working now, sir. I believe at the St. Louis City Hall in the last year and a half, on a part-time basis, when they needed additional help down there. That is my recollection right now.

Q. Did you work as a journeyman or as a foreman? A. I have been a journeyman and a foreman, sir.

Q. On these last three jobs, were you a journeyman? A. At times I have been both. Predominantly, I have been a journeyman. The foreman I was working for now was sick for about three weeks about a month or so ago, and

I was foreman on the job. Intermittently I have been foreman or journeyman, either way.

Q. Sir, during the period of time that you were away on official business, I take it that you are not on a construction payroll at that time? A. No, I'm not.

Q. Now, do you make a contribution into the Fund? A. I make, if we work four days, if there is a holiday, [1,623] I put in \$2.00. If it is five days, I put in two-fifty. This is my choice, sir.

Q. Yes, sir. But for a period of time, we will say as much as two weeks, when you do not work at all, do you pay? A. Pretty much. I'm not going to say that I make the contribution diligently every week, but I do. I do say that most of the time I do make the contribution to the Political Fund.

Q. Even though you aren't working? A. Yes, sir. But, sir, this is my choice.

Q. You pay it in—Suppose you work no hours. What do you pay in for a week? A. Well, it would be \$2.50 like I said, unless I—like I said, if it is a four-day week, there is a holiday or something, \$2.00.

Q. Just so that the record is clear and the jury understands, the Court understands it, and certainly for my own understanding, do I understand your testimony to be that periods of time when you aren't working at all, when you are away on official duties— A. That's right.

Q. —as a legislator, do you pay into this Fund? A. I do, sir.

Q. How do you make your payments? [1,624] A. In cash, sir.

Q. Who do you make them to? A. Well, I usually collect the money myself. If I happen to be on a job and the men will give me the money, then I take it on to the Union hall and give it to, like there was a gentleman here a

short time ago, Mr. Beck, I would give the envelope and the slip of paper to Mr. Beck, or to anybody, you know, that I felt was involved in the Voluntary Fund, sir.

Q. Well, now, let's assume that it is a week where you aren't collecting yourself, and you pay in cash. How do you make that payment? A. Sir, I accumulate maybe over a month or so, and then I take it all down at one time.

Q. You take your money down? A. Plus any other:

Q. Plus the money that you collected? A. Of any other member that would contribute on the job, you know.

Q. Are you a steward? A. I would say yes, I would say I am a steward. I don't know how official that is, but any problems between the trades, they usually look to me to talk with the other crafts if we ever have any disputes, to try to work it out.

Q. Sir, at one time did you contribute \$5.00 a week, [1,625] or a dollar a day? A. I am going to say yes, I believe we did, sir. I'm quite sure that it was a dollar a day at one time. When it was, I am not going to be able to tell you exactly what year it was, or anything like that, but I would say it is possible that I contributed a dollar a day.

Q. Well, do you recall—I am not asking for the possibility. If you recall, why so state. If you don't recall—
A. Well, can I say I think I did, sir?

Q. All right. Do you remember about when your contributions went from a dollar to fifty cents? A. I believe in the last two years; last two and a half years, to the best of my recollection.

Q. Do you remember when the assessment went up from two point something to three point something? A. Three point three three four?

Q. Yes. A. I believe I do, sir. I'd say that was probably in the last two or two and a half years, to the best of my recollection.

Q. Did it happen about the same time, from your recollection? A. I believe so, sir.

[1,626] Q. At the same meeting? A. I can't give you an honest answer. I would say it is a possibility. I just can't recollect exactly what meeting this change might have been made.

Q. Sir, did you contribute to the Callanan Gift Fund? A. Yes, sir.

Mr. Daly: We object to that, Your Honor, and ask it be stricken, for the reasons already stated.

The Court: All right. The record will show that you objected. It will be overruled.

Q. (By Mr. Riddle) At the same rate? A. Which rate, sir?

Q. Well, maybe I should ask you at what rate did you contribute? A. I believe it was a dollar, if that was the Fund at that time.

Q. Whatever the amount was that everybody else was paying, that is what you paid? A. Yes, sir.

Q. Sir, did anybody ever consult with you about what use would be made of these funds that were collected? A. Consult with me individually?

Q. Yes. I am not talking about the Callanan Fund. A. Nobody consulted with me individually, sir, about [1,627] what usage this Fund would be put to. I have been at meetings, but nobody asked.

Q. Union meetings? A. Political meetings, I believe you are talking about, sir.

Q. I am asking you about the political meetings or Union meetings? A. Well, I'm not—you will have to re-state right from the start, if you would, your last few questions, if you would, sir.

Q. Well, let's talk about a meeting at which some business of the Political Fund was discussed. A. Was I there?

Q. Yes. Do you remember such a meeting? A. I remember many of them, sir, I attended.

Q. What is the most recent one? A. I'm sorry, I can't answer that. I don't recollect.

Q. Well, the last one that you recollect attending? A. I attend as many as I possibly can, sir. I have other political commitments. I might come early, I might come late, but I do try to make them all.

Q. Well, the last one that you remember meeting or attending? A. I'm sorry, I can't give you an honest answer.

[1,628] Q. Do you remember where it was? A. I'm quite sure that all of the meetings lately have been at the IBEW hall on Elizabeth Avenue, right off Hampton.

Q. Both the Union meetings and the so-called Fund meetings? A. The Union meetings are held there too, sir, and the Fund meetings are held there.

Q. Did you ever see any minutes from those meetings, those Fund meetings? A. No, sir.

Q. Are you a member of the Fund? Oh, yes, sir.

Q. Do you have a membership card? A. I don't think so, sir. But I think that my contribution indicates I'm a member of the Fund.

Q. Did you ever get a receipt for any cash that you paid into the Fund? A. Not to my knowledge, sir.

Q. Did you ever ask for one? A. No, sir, I never have.

Q. You say you have collected from Union members also? A. Yes, sir.

Q. Out on jobs? A. Yes, sir.

Q. Did you ever distribute any of the so-called Voluntary [1,629] cards? A. Yes, sir.

Q. Under what circumstances or conditions would you distribute those cards, pass them out? A. You mean like a new man coming on the job?

Q. Yes. A. I would hand the card to him and ask him to read it and——

Q. Just as soon as he came on the job? A. I would say within that day, I would say, sir. Yes. I mean not a week later, but when it would be feasible, reasonable to do it, because usually they have to make out their W-2 forms and their state forms, and then I would hand——

Q. All at the same time? A. Usually it happens that way, sir.

Q. Did you make an explanation to these people as to how much they were to pay into the Fund? A. I don't think I've ever had to make an explanation, but I would have been happy to do it. If they asked me the question, I would say that most of them that work in our shop had worked in the area before and were familiar, I am sure, with the Voluntary.

Q. If they didn't work on one of your jobs before, they knew what the amount was before they came? [1,630] A. Yes, sir, I would say they did. I can't recollect anybody asking me, "How much is the Fund?" But I'm the one that handed the card to them and asked them to read it.

Q. You are saying that some fellows coming in here from Oklahoma, who had never worked—— A. I never had that, sir.

Q. Or from another local? A. Most of the men that have been on the jobs have been members of the Union, and a few, maybe men that have worked in this jurisdiction for some time, so I have never had anybody come from Oklahoma and Texas, to my recollection.

Q. Let me call your attention to a man who was an out-of-towner. A. Um hmm.

Q. Now, his rate of pay was what? Two dollars a day? A. Rate of pay?

Q. Well, rate of contribution; Voluntary contribution. A. Two dollars; yes, sir.

Q. His rate was \$2.00 a day? A. Right, sir.

Q. And your St. Louis people were 50 cents a day, or a dollar a day, depending on what time it was? A. Right.

Q. Did the out-of-towner ever ask you why he was charged [1,631] \$2.00 and the St. Louis man was charged only 50 cents? A. No, sir.

Q. Did you ever think it advisable or fair to tell him why there was a difference? A. Never came across my mind, sir.

Q. It didn't come across your mind that one person was paying four times as much as another one, on the same job? A. No, sir. That's none of my affair.

Q. But the new man coming on the job from out of town who would ask you how much he was to pay at the time you gave out the card, if he did ask you to pay— A. Which he did not, sir.

Q. None of them ever did? A. Not to my knowledge, sir. I don't recollect that any of them said, "How much is it?" "How much is the Voluntary Fund today or tomorrow?" Or anything; not to my knowledge.

Q. You mean the word was so well circulated? A. I am not saying that, sir.

Q. Among all pipefitters, that they knew in advance on coming on a 562 job? A. Sir, I am not trying to presuppose what any of them had in their mind.

Q. Yes, sir. Did you make collections during the period of time that the Callanan Gift Fund was being operated?

[1,632] Mr. Daly: I will object to that question, ask it be stricken, the jury instructed to disregard it, and a mistrial be declared.

The Court: All right. The record will show your objection, and it will be overruled.

The Witness: I am supposed to answer, sir?

The Court: Yes.

The Witness: Would you state it again?

Q. Did you make collections during the period of time that the Callanan Gift Fund was being operated? A. I would imagine that I did, sir, just like I always have.

Q. Do you know how much was collected in the Callanan Gift Fund?

Mr. Daly: I object to that, Your Honor, and ask that be stricken; not relevant or material.

The Court: I think it's been in there anyway. I will sustain the objection.

Mr. Riddle: I believe I have nothing further to ask this witness.

The Court: Any redirect of this witness?

Mr. Randall: I'd like to ask a question too.

[1,633]

Redirect Examination.

By Mr. Randall:

Q. Mr. Young, do you know whether or not the men who work under the jurisdiction of Local 562 who are not members, work rather regularly in this jurisdiction? Do you know what Mr. Riddle calls the out-of-towners, or regular people, that work rather regularly in this jurisdiction? A. Would you state it one more time?

Q. Sir?

The Court: What he wants to ask you, sir, is whether or not you, of your own knowledge, have any recollection of a group of people who were not regular members of 562, who are regularly employed in this jurisdiction. Is that—

The Witness: There are.

Q. (By Mr. Randall) And do you know the policy of the Local as to which local, other local they refer to jobs first? A. I would assume ones in the eastern half of Missouri.

Q. And those two locals are located where? A. I believe in Cape Girardeau and Hannibal, Missouri.

Q. Hannibal? A. Yes, sir.

Q. And it is only when men are not available in those two locals, including the St. Louis Local, that people are brought in from out of state; is that correct, sir? [1,634]

A. I would believe that, sir. I'm sure that is what happens.

Q. And that happens rather infrequently, doesn't it, Mr. Young? A. Well, we have got a lot of people working, sir. It's mostly, I would say, tradesmen from the eastern half of Missouri that work on most of the jobs.

Q. I see. And when you testified that people that came to work for you, they were these people in eastern Missouri; is that correct? A. Most, I'd say 90 per cent of them, sir, were Missourians.

Mr. Randall: Thank you.

Anything else, Mr. Riddle?

Mr. Riddle: I have nothing further.

The Court: All right. Step down.

(Witness excused.)

WILLIAM KRUSSEL,

being first duly sworn, testified in behalf of the defendants as follows:

Direct Examination.

By Mr. Daly:

Q. State your name, please? A. William Krussel.

[1,635] Q. Where do you live, Mr. Krussel? A. St. Louis County.

Q. Give your street address, would you please? A. 3025 Wells Road.

Q. And is that St. Louis County? A. Yes, sir.

Q. In what part of the County is that located, Mr. Krussel? A. South end of the County.

Q. What is your business or occupation? A. I'm a pipe-fitter doing refrigeration service.

Q. For whom are you employed? A. L. V. Fleiter Company.

Q. And where are they located? A. 3516 Rutger.

Q. How long have you been with this company, Mr. Krussel? A. Twenty-three years.

Q. And what type of work does the Fleiter Company do? A. Mostly refrigeration installation and—

Q. Are there other pipefitters on that job, other than yourself? A. Yes.

Q. How many are on that job? Do you know? A. Six.

Q. Now, you have been a member of Local 562, you say, [1,636] for twenty-three years? A. That's right.

Q. And you have been employed down at Fleiter Company that entire time; is that correct? A. That's right.

Q. Now, are you familiar with the Voluntary card? A. Yes.

Q. And have you signed the Voluntary card yourself? A. Yes.

Q. Do you contribute yourself into the Voluntary Fund, Mr. Krussel? A. Very little since 1963.

Q. Very little. All right. Now, has anyone ever said anything to you about your failure to contribute? A. No, sir.

Q. Are you still working for the same company you always did? A. Yes, sir.

Q. Now, do you know whether the other pipefitters were working for the Fleiter Company, whether or not they contributed? A. I don't know.

Mr. Daly: You don't. I have no further questions.

[1,637]

Cross-Examination.

By Mr. Riddle:

Q. Sir, you have been with this one company for how many years? A. Twenty-three years.

Q. Is that the only company you have worked for in twenty-three years? A. Yes.

Q. You haven't been assigned out of the hall, out of the Union hall, on a job then? A. No, sir.

Q. For that period of time? A. No, I haven't.

Mr. Riddle: I have nothing further to ask.

The Court: Any redirect examination?

Mr. Daly: Just one question.

Redirect Examination.

By Mr. Daly:

Q. Mr. Krussel, if one leaves the Fleiter Company down there, and you need another pipefitter, does the hall send another man down? A. Yes, I think so.

Q. Are the men there hired out of the hall just like anyone else? [1,638] A. I think so, as far as I know.

Q. And your wage scale is what? A. Five sixty.

Q. That is the same as the rest of the pipefitters; is that right? A. That's right.

Mr. Daly: That is all.

Recross Examination.

By Mr. Riddle:

Q. You don't know whether the other people who are sent out by the hall pay into this Fund or not? A. I don't.

Mr. Riddle: That's all.

The Court: All right. Step down.

(Witness excused.)

FLOYD L. KIMMEL, JR.,

being first duly sworn, testified in behalf of the defendants as follows:

Direct Examination.

By Mr. Randall:

Q. Would you state your full name, please, sir? A. Floyd L. Kimmel, Jr.

Q. Where do you live? A. 714 St. Louis Road, Collinsville, Illinois.

[1,639] Q. Are you a member of Pipefitters Local 562? A. Yes, I am.

Q. How long have you been a member? A. A little over two years.

Q. How long have you been on your present job? A. Thirteen months.

Q. Have you always contributed to the Pipefitters Voluntary Fund? A. At one time, I didn't.

Q. And when you didn't contribute, did anybody say anything to you about your failure to contribute? A. No.

Q. And have you worked continuously? A. Yes, I have.

Mr. Randall: You may inquire.

Cross-Examination.

By Mr. Riddle:

Q. Sir, you say at one time you didn't pay in. When was this? A. 1966, I believe it was. My family was sick with hepatitis and I fell behind one time for about five weeks, and I never did make it up.

Q. Did the foreman know of your family's condition? A. Yes. Well, at that time, I was taking the Voluntary [1,640] contributions down to the Local, because I was working for a small contractor and there was no one on the job collecting.

Q. Well, did you tell them down at the Local about your family? Did they know about your family's hardship? A. I don't believe it was asked, and I didn't volunteer the information.

Q. But your foreman knew about it? A. My foreman knew about it; yes.

Q. You dropped off payment for about how long? A. About five weeks.

Q. Otherwise you have been paying every week? A. Right.

Q. Sir, you became a member of 562 in 1966? A. Yes.

Q. Were you an apprentice before that time? A. No.

Q. Were you transferred from another local into 562? A. No. I came in working on a permit at first.

Q. On a permit at first? A. On a permit.

Q. How long did you work on Local 562's jobs under permit? A. Six months.

Q. During that time, did you pay regular dues and [1,641] assessments into the Union? A. No. There was no dues or assessments at that time.

Q. What about Voluntary payments? Did you—— A. I made a Voluntary contribution.

Q. Did you have any dues and assessments, or regular dues and assessments to any local during that period of time? A. No.

Q. What job were you working on during that period? A. When I was working under permit?

Q. Yes. A. With Dougherty Company up at the powerhouse.

Q. Did you pay your dues then, or pay your money into this Fund then in cash to the foreman on the job? A. Right.

Mr. Riddle: I have nothing further to ask him.

The Court: Any redirect?

Mr. Randall: No redirect, Your Honor.

The Court: Step down. Go out that way.

(Witness excused.)

JAMES A. LAWLER

being first duly sworn, testified in behalf of the defendants as follows:

[1,642] **Direct Examination.**

By Mr. London:

Q. State your name, sir. A. James A. Lawler.

Q. And where do you live, Mr. Lawler? A. Sappington, in Sappington, Missouri.

Q. Mr. Lawler, are you a member of Pipefitters Local 562? A. I am.

Q. Are you familiar, sir, with the Voluntary Fund? A. Partly.

Q. Do you contribute to the Fund, sir? A. Yes, sir.

Q. Are your contributions to the Fund voluntary, sir? A. Yes, sir.

Q. Have you ever attended any meetings of the Voluntary Fund? A. No, sir.

Mr. London: You may inquire.

Cross-Examination.

By Mr. Riddle:

Q. Are you related to Mr. John Lawler, one of the defendants in this case? A. No, no relation at all.

Q. You say you are partly familiar with this Fund. What [1,643] did you mean by that, sir? A. Well, I know we use it for political means.

Q. Political meetings? A. I guess that's it.

Q. Is that the only thing you know about it? A. That's about all I know about it.

Q. Have you paid all the time? A. Yes, sir.

Q. Never missed a payment? A. No, sir.

Q. Have you been a member of 562 for how long? A. About twenty-six years.

Q. How many different jobs have you worked on? A. That would be hard to say. I don't know.

Q. Do you get assigned out of the hall on various jobs? A. Well, yes.

Q. How often do you get assigned on the average period of— A. Well, I have worked for one company now about fifteen years, and I just go from one job to another on them.

Q. Well, do you get assigned out of the hall? A. No, no.

Q. You stay with that company? A. That's right.

Q. Sir, is it your understanding that all this money [1,644] that is paid in is used for political purposes? A. Yes, sir.

Q. All of it? A. Well, that, and I suppose it is all political purposes; yes.

Q. This, is your understanding of it? A. That's right.

Q. Would you be willing to pay into it if it were used for other purposes? A. Yes, I would.

Q. If it would benefit the Union? A. That's right.

Q. Do you consider the payments you make into this Fund for the Union's benefit? A. Yes, I certainly do.

Q. Do you consider the assessments that you pay beneficial to the Union also? A. Oh, yes.

Q. And dues? A. And dues.

Q. What do you figure it costs you a day to work on one of these, to work as a pipefitter? A. Well, my assessments are three and three-quarters per cent. Dues are three and a half a month, and fifty cents a day [1,645] to the Voluntary Fund.

Q. This is what you consider the cost of working on the job? A. That's right.

Mr. Riddle: Yes, sir. That's all.

Mr. London: That's all.

The Court: Step down. Go out that door.

(Witness excused.)

ARTHUR TONEY,

being first duly sworn, testified in behalf of the defendants as follows:

Direct Examination.

By Mr. Daly:

Q. State your name, please. A. Arthur Toney.

Q. Where do you reside, Mr. Toney? A. 6617 Marmaduke.

Q. Where is that located? A. St. Louis.

Q. And what is your business or occupation? A. Pipe-fitter.

Q. And do you belong to a union, sir? A. Local 562.
[1,646] Q. Now, how long have you been a member of Local 562? A. Since January, 1948.

Q. That's about twenty years? A. Twenty years.

Q. Are you familiar with the Voluntary card? A. Yes, I am.

Q. Have you contributed to the Voluntary Fund? A. Yes.

Q. And you contribute on a regular basis? A. No. I usually let it go for about a month or so, and then pay it.

Q. Now, you let it go maybe a month without making any contributions at all? A. It's gone as high as \$85.00 or so.

Q. During that period that you'd let it go, did anybody say anything to you? A. No, sir.

Q. Did anybody ever call you up, or talk to you about your contribution? A. No, sir.

Q. Are you paid up now? A. No, sir.

Q. How many weeks has it been now since you have paid? A. About four weeks.

[1,647] Q. Anybody ever commented anything to you, or contacted you? A. No, sir.

Q. Who do you work for, Mr. Toney? A. Corrigan Company.

Q. What business are they in? A. Pipefitting.

Q. And what type of company is Corrigan? A. construction company or—— A. They are piping contractors.

Q. Piping contractors? How long have you been with Corrigan? A. A year last June.

Q. And did they do work in different places, or do you always work in the same place? A. No; different places.

Q. Wherever they happen to have a job? A. That's right.

Q. Who did you work for before you were with Corrigan? A. Moritz. Carl Moritz Heating Company.

Q. How long were you with them? A. Four or five months.

Q. When a job closes down, or something, and you want work, how do you get your work? [1,648] A. I go to the hall.

Q. And they assign you out from there; is that right? A. Yes, sir.

Mr. Daly: He's your witness.

Cross-Examination.

By Mr. Riddle:

Q. Sir, you said you were all paid up now, except for the last thirty days? A. Yes, sir; just about four weeks.

Q. You don't have any other delinquencies, nothing else owing for back work? A. No, sir. To the best of my knowledge, I don't.

Q. You have tried to keep current all the time? A. Yes, sir.

Q. You might get a week or two, or three, or four weeks behind, but then you catch up? A. Yes, sir.

Q. How did you make your catch-up payments? A. Cash.

Q. Down at the hall, or how do you— A. At the hall. Yes, I go in with it.

Q. Who do you usually pay it to? A. It was Eddy Beck, and now Mr. Seaton.

Q. Mr. George Seaton? [1,649] A. Yes, sir.

Q. How long have you been paying it to Mr. George Seaton? A. Oh, last three or four times I was there.

Q. Sir, what does it cost you a day to work on a job under Local 562? A. It costs me a day?

Q. Yes. For your Union affiliation? A. Oh, you mean the dues or——

Q. The total amount of cost per day for you to work on a 562 job? A. We have an assessment that the company, the employer takes out. That is three and a quarter per cent. of what we make.

Q. Do you know about how much that costs you a day? A. No, I don't. I make \$40.00, I imagine.

Q. Sir? A. I make about \$40.00. Three and a quarter per cent of that—three and three-quarters, I believe it is—three and three-quarters per cent.

Q. Then what other charges do you have? A. Once a month we pay \$3.50 dues.

Q. All right. A. And that's all.

Q. What about this payment that you are behind in a month now? How much do you figure that out a day? [1,650] A. That is a Voluntary Fund, and it is 50 cents a day.

Q. Fifty cents a day? A. If you want to pay it.

Q. Yes, sir. You have elected not to pay it, have you? A. No, I haven't.

Mr. Riddle: I have nothing further.

Mr. Daly: No redirect.

The Court: All right. Step down.

(Witness excused.)

LEO F. PIERSON,

being first duly sworn, testified in behalf of the defendants as follows: .

Direct Examination.

By Mr. Randall:

Q. Mr. Pierson, would you state your full name? A. Leo F. Pierson.

Q. Where do you live, sir? A. 3345 Steed.

Q. What city? A. Florissant.

Q. Are you a member of Pipefitters Local 562? A. Yes, sir.

Q. How long have you been a member? A. About four and a half years.

[1,651] Q. Have you always contributed to the Voluntary Fund? A. Yes.

Q. Have your contributions been voluntary? A. Yes, sir.

Q. Have you ever attended any of the meetings of the Fund? A. Yes, sir.

Mr. Randall: You may inquire.

Cross-Examination.

By Mr. Riddle:

Q. Mr. Randall asked you if you ever attended any of the meetings of the Fund. A. Yes, sir.

Q. When did you first hear of a meeting of a Fund? A. Of a Fund?

Q. Of a Fund? How are you spelling it? A. F-u-n-d.

Q. Yes. What did you first hear about a Fund meeting? A. When we got a card in the mail.

Q. When? A. I believe it was '64; the summer of '64.

Q. Do you recall what the card said? A. No, I don't. Said there would be a meeting of the Fund.

Q. Just called it Fund? A. No. The Voluntary Health and Welfare Fund, Political [1,652] Fund.

Q. You attended that meeting? A. Yes, sir.

Q. Who presided at it? A. Mr. Callanan.

Q. Mr. Callanan? A. Yes, sir.

Q. Where was it held? A. At the Electricians hall on Elizabeth Avenue.

Q. Do you remember what month of the year? A. No, sir, I don't recall. I believe it was around June or July.

Q. Do you remember what the business was? A. They were talking about various candidates that they thought we should back.

Q. Did you vote on anything? A. I don't believe we did.

Q. You say you pay each and every week? A. Yes, sir.

Q. How long have you been working on the job you are on now? A. Seven months.

Q. How did you get assigned out there? A. I was called one night.

Q. From the hall? [1,653] A. From the hall.

Q. Who called you from the hall? A. Ed Steska.

Q. Sir, have you taken your money down to the hall on occasions as cash? A. One time.

Q. Who did you give it to when you went down there? A. John Lawler, Jr.

Q. Do you know Eddy Beck? A. Yes, sir.

Q. Do you know if he is related to Mr. Callanan? A. Yes, sir.

Q. What is that relationship? A. Son-in-law.

Q. Do you know Pat Stieferman? A. No, I don't.

Q. You don't know who she is, even? A. No, sir.

Q. Never heard of her? A. I believe it is one of the ladies that work up in the office.

Q. Do you know if she is related to any of these defendants? A. No, sir, I don't.

Mr. Riddle: You don't know that. I have nothing [1,654] further.

The Court: Any redirect? Go out that door.

(Witness excused.)

FRANK O'NEIL,

being first duly sworn, testified in behalf of the defendants as follows:

Direct Examination.

By Mr. London:

Q. State your name, sir. A. Frank O'Neil.

Q. Where do you live, Mr. O'Neil? A. 709 Holiday, Hazelwood, Missouri.

Q. Mr. O'Neil, are you a member of Pipefitters Local 562? A. Yes, I am.

Q. Do you contribute to the Voluntary Fund? A. Yes, I do.

Q. Are your contributions to the Fund voluntary? A. Yes, they are.

Q. Have you ever attended any of the meetings of the Voluntary Fund? A. Yes, I have.

Mr. London: You may inquire.

Cross-Examination.

By Mr. Riddle:

[1,655] Q. How long have you been paying into this Fund? A. Oh, I would imagine as long as it's in existence.

Q. Are you a foreman? A. At times; yes, sir.

Q. You have never missed a payment? A. Oh, yes.

Q. Caught up with it? A. If necessary; yes.

Q. Well, did you catch up with one that you missed?
A. Yeah; several.

Q. But you have never failed to pay, although some of your payments were made late? A. Oh, I wouldn't say I never failed to pay; no, sir, nothing like that. No. I maybe still owe money.

Q. You still may owe some money? A. Yes, I do.

Q. Well, do you say that you may, or do you owe some money now? A. Well, to put it frankly, yes, I do.

Q. How much do you owe? A. I have no idea.

Q. Is it a hundred dollars? A. Possibly.

Q. More than that? [1,656] A. I would think not; no.

Q. You think it is less than a hundred? A. Yes.

Q. How long have you been owing? A. Golly. Records are not kept on that, as far as anybody that I know.

Q. You say the records aren't kept as far as how much you owe? A. As far as my records, I don't keep any records; no. I could find out, possibly, if I had to.

Q. How could you find out? A. Well, by back-checking myself.

Q. Could you go down to the hall and find out how much you owe? A. Oh, I think so; yeah.

Q. That is because they keep the records down there? How much you pay and how much you don't pay? A. I would think they would. Any organization must keep some form of records.

Q. They keep records down there on your regular assessments, on your regular dues? A. Oh, yes. Yes, because that is taken out of the check. Yes, they do do that.

Mr. Riddle: I have nothing further.

[1,657] Mr. London: That's all.

The Court: Step down. Go out that door.

(Witness excused.)

JOSEPH DUKEMAN,

being first duly sworn, testified in behalf of the defendants
as follows:

Direct Examination.

By Mr. Daly:

Q. State your name, please. A. Joseph Dukeman.

Q. Where do you reside, Mr. Dukeman? A. 1222 Hobson,
Hudson Hills, Ferguson.

Q. With whom do you reside? A. My wife, family.

Q. Are you buying that place out there? A. Yes, sir.

Q. What is your business or occupation? A. Steam-
fitter foreman.

Q. And do you belong to a union? A. Yes, sir.

Q. What union do you belong to? A. 562.

Q. How long have you been a member of Local 562?
A. Since 1959.

[1,658] Q. 1959. That would be about nine years? A.
Yes, sir.

Q. And where are you employed at the present time?
A. Climate Engineering Company.

Q. Where are they located? A. 5100 Claxton.

Q. How long have you been with Climate Engineering
Company? A. Approximately six months.

Q. How did you happen to get that job? A. I was
finished up at a job, my last place, and went to the hall,
and the hall told me to report to these people.

Q. I see. And who did you work for prior to the time that you worked for Climate Engineering Company? A. General Installation.

Q. Now, are you familiar with the Voluntary Fund? A. Yes, sir.

Q. And did you sign a Voluntary Contribution card? A. Yes, sir.

Q. And do you contribute to the Fund? A. Yes, sir.

Q. Are your contributions voluntary, Mr. Dukeman? A. Yes, sir.

Q. Do you contribute some of the time, or all of the [1,659] time, most of the time? How do you make your contributions? A. All the time, but I don't pay it every week. I leave it ride sometimes two or three months and then make out a check.

Q. Do you sometimes get behind? A. Yes, sir.

Q. Now, at any time that you were behind in your contributions of the Voluntary Fund, did anyone ever come out and talk to you about it? A. No, sir.

Q. Did you ever lose any hours, or anything? A. No, sir.

Q. Did they ever fail to refer you out to a job because you were behind? A. No, sir.

Q. Are you current at the present time? A. No, sir; maybe two or three weeks in arrears now.

Q. The money that you contribute, do you contribute voluntarily? A. Yes, sir.

Mr. Daly: He is your witness.

Cross-Examination.

By Mr. Riddle:

Q. You are all current, except for two or three weeks?

A. Yes, sir.

[1,660] Q. All the years you have been, well, since January of '63 at least, you have paid each and every week the amount that was fixed? A. Yes, sir.

Q. Who fixed the amount that you paid? A. Well, it was voted on to pay 50 cents a day.

Q. It was voted on that you would all pay 50 cents a day? A. 562 members; pay 50 cents a day.

Q. Was that at the Union hall? A. Yes, sir.

Q. Voted on that all the out-of-towners pay \$2.00 a day? A. I believe so; yes, sir.

Q. What do you figure it costs you a day to work on a Local 562 job? A. About a dollar seventy-five cents for my assessments and dues, and fifty cents for my political.

Q. One dollar seventy-five cents for your dues and assessments? A. Yes, sir.

Q. And 50 cents a day for your political? A. Yes, sir. And three and three-quarters per cent of my gross.

Q. You figure all of these are a cost of what it costs you a day to work? [1,661] A. Well, yes, sir, this is what I pay in.

Mr. Riddle: Yes, sir. I have nothing further.

Mr. Daly: No redirect.

The Court: All right. You may go out that door.

(Witness excused.)

JOHN B. MARSHALL,

being first duly sworn, testified in behalf of the defendants as follows:

Direct Examination.

By Mr. Randall:

Q. Mr. Marshall, would you state your name, please?

A. John B. Marshall.

Q. Where do you live, sir? A. 4855 Shellfont Road.

Q. Are you a member of Pipefitters Local 562? A. Yes, sir.

Q. Have you always contributed to the Voluntary Fund? A. Yes, sir.

Q. Did you sign one of the Voluntary Contribution Agreement cards? A. Yes, sir.

Q. Have your contributions been voluntary? A. Yes, sir.

Mr. Randall: You may inquire.

[1,662]

Cross Examination.

By Mr. Riddle:

Q. You paid each and every week for how long? A. I can't quite remember, sir, how long.

Q. Never missed? A. No, sir.

Q. What kind of jobs do you work on? A. I work for the Thomas J. Sheehan Company.

Q. That is a construction company? A. Yes, sir.

Q. Who do you usually pay your money to? A. I have been collecting myself.

Q. Oh, you are a collector? A. Yes, sir.

Q. Are you a steward? A. Yes, sir.

Q. All of your men pay you? A. Yes, sir.

Q. Each week? A. Yes, sir.

Q. Do you have out-of-town men working on your job? A. No, sir.

Q. Have you ever had, on one of your jobs? A. Yes.

[1,663] Q. What amount did you collect from the out-of-towners? A. Two dollars a day.

Q. On that same day, how much do you collect from your regular members? A. Fifty cents per day.

Q. Sir, do the out-of-towners know that the local boys were paying less than they were? A. Yes, sir.

Q. Did you tell them? A. Yes, sir.

Q. Did they ask you why? A. No.

Q. Never did ask you why? A. No. Not to the best of my recollection.

Q. You mean these out-of-towners who were paying more, and knew they were paying more, never asked you why? A. Well, the card explains itself, that they signed.

Q. Did they sign a different card than the regular members? A. No, sir.

Q. Well, how does the card explain it then? A. Well, I think the reading, the statements on the card are such that it is self-explanatory.

Q. You mean it self-explains the difference in [1,664] two dollars, and fifty cents? A. No, sir.

Q. Now, sir, again I come back and ask you the question: Do these people from out of town who paid \$2.00, ever ask you why they paid more than the regular members? A. Not to the best of my knowledge; no, sir.

Q. And you say that they did know they paid more? A. Yes, sir.

Q. Did you ever feel obligated to explain to them why the disparity in the two rates? A. No, sir.

Q. Do you know what the reason for the disparity in the two rates is? A. Yes, sir.

Q. What is the reason why they paid \$2.00, and you boys just paid 50 cents? A. Well, I don't understand the question.

Q. Well, sir, I asked you if you knew the reason for the disparity between the \$2.00 payments on the one hand and the 50-cent payments on the other? A. Well, our dues is automatically collected off of our checks at three and three-quarter per cent rate, and that's why.

Q. Well, go ahead with that explanation. We haven't [1,665] heard it for some time. Go ahead and tell us again.

A. Well, our dues is mandatorily and automatically checked off of our pay checkoff system. That's all there is to it.

Q. Well, what bearing does that have on the difference between the two-dollar payment and the fifty-cent payment, just because your dues are checked off? A. Well, I don't know, sir.

Q. Well, sir, isn't it because the amount, the \$2.00 to the out-of-towners is increased and greater because the total of what you and the others paid amounts to just about that, namely, \$2.00 a day? A. Yes, sir.

Q. Why are you reluctant to admit that? A. I didn't think I was reluctant, sir.

Q. Well, isn't it a fact that you know that it costs you about \$2.00 a day, and this is the amount that it costs the out-of-towners? A. Well, I can speak for my own as three and three-quarters per cent on my dues and assessments, and 50 cents on my political contributions.

Q. That's about \$2.00 a day, isn't it? A. Yes, sir, approximately.

Q. And the people from out of town are hit for the same [1,666] amount? A. Yes, sir.

Q. And if anybody ever asks you to explain that, this is the explanation you'd give if you were being honest with them?

Mr. London: I will object to the form of the question, Your Honor. It is argumentative, and assuming matters not in evidence.

The Court: He may answer.

The Witness: Yes, sir.

Q. (By Mr. Riddle) Yes, sir. You still say, in view of that, that these are voluntary payments? A. Yes, sir.

Q. What do you mean by voluntary? A. Giving of one's own free will.

Q. Yes, sir. Do you understand that when you pay your telephone bill, that is a voluntary payment? A. No, it is not, sir. I don't believe it is, because I would expect your telephone would be disconnected if you didn't pay your bill.

Q. But you voluntarily pay it, don't you? A. No. Well, I voluntarily pay it, yes, but realizing that I would lose the telephone service if I didn't.

Q. Yes, sir. Are you saying that these payments, the [1,667] out-of-towners pay \$2.00, as compared to the 50 cents that you fellows pay into the Fund? A. Would you repeat this, sir?

Q. Are you saying that the out-of-towners, who pay \$2.00 per day, are of their own free will and volition paying four times as much as you are into the Fund? A. Yes, sir. They all signed the cards.

Q. They signed those cards the day they reported for work, didn't they? A. Yes, sir.

Q. Did anybody ever refuse to sign a card when he reported for work? A. No, sir.

Q. So you don't know whether you'd put him to work or not, do you? A. That's correct, sir.

Q. You have never had that experience, have you? A. That's right.

Q. Of all the people that you handed out these cards to, none of them had the courage to say, "No, I won't sign"?

Mr. Daly: I will object to that.

Q. (By Mr. Riddle) Or none of them didn't sign anyway?

The Court: Be sustained.

Q. (By Mr. Riddle) You say you have never had that [1,668] experience of somebody refusing to sign? A. That's right, sir.

Q. Did you ever have the experience of somebody refusing to pay you? A. No, sir.

Q. Sir, do the boys down at the Union hall send the new members out to your job when you need additional help? A. No, sir, not necessarily.

Q. Generally, that is where you get — A. They transfer from one job to another job through the company that I work for.

Q. And the Union hall is in on that transaction too, aren't they? A. They are notified of the changes.

Q. Yes, sir. Sir, did you collect right on along during the period of the Callanan Gift Fund collection?

Mr. Daly: We object to that, Your Honor, ask it be stricken, the jury instructed to disregard it, and a mistrial be declared. It is not relevant to any of the issues involved in this case, not tending to prove or disprove any of the issues in this case; highly prejudicial.

The Court: The request will be denied. Motion will be overruled.

The Witness: No, I personally did not collect, sir, [1,669] during that period of time.

Q. Did you pay during that period of time? A. No, sir.

Q. Do you know if the out-of-towners paid four times more than the — A. No, sir.

Redirect Examination.

By Mr. Randall:

Q. Mr. Marshall, how long have you been with the Sheehan Company? A. Thirteen years.

Q. You say that the men that have been working for you have been transferring from one job to another along with you? A. Yes, sir.

Q. The people that Mr. Riddle refers to as out-of-town-ers, are they from the Cape Girardeau or Hannibal local? A. Yes, sir, to the best of my knowledge.

Q. And they have been working with you all these years too? A. That's correct.

Q. Have you ever attended one of the Political Fund meetings down there at the hall? A. Down where, sir?

Q. Down at the Electricians hall? [1,670] A. Yes.

Q. And did these people, who are members of the Cape Girardeau and Hannibal locals, also attend those meetings? A. Yes, sir, to the best of my knowledge.

Q. And were you present, and they present when the membership in the Fund voted on how much the members of those locals would pay into the Voluntary Fund? A. Yes, sir.

Mr. Randall: That's all.

Recross-Examination.

By Mr. Riddle:

Q. Sir, do you remember any boys from Cape or from Hannibal who were at this meeting, who were in favor of their two-dollar a day payments? A. I can't recall any particular names; no, sir. Not at the moment.

Q. You just said that some of them were there. A. Yes, sir; different individuals spoke.

Q. From those unions? A. From those locals; yes, sir. I believe a business agent for that local was there.

Q. Oh, the business agent from the Cape local or from the Hannibal local? A. From the Cape, I believe.

[1,671]. Q. Did he speak in favor of it? A. Yes, sir.

Q. Did he? A. (Indicating yes.)

Q. Anybody else? A. Not that I can recall right at the moment.

Q. He spoke in favor of his boys paying four times as much as you? A. Yes, sir.

Q. And he is their representative? A. Yes, sir.

Q. Looking out for their interests? A. Yes, sir.

Mr. Riddle: That's all.

Mr. Daly: That's all.

The Court: That is all. Go out that way.

(Witness excused.)

JOHN F. MARSH,

being first duly sworn, testified in behalf of the defendants as follows:

Direct Examination.

By Mr. London:

Q. State your full name, sir. A. John F. Marsh.

[1,672] Q. Where do you live, Mr. Marsh? A. Annapolis, Missouri.

Q. What do you do for a living? A. I am a pipefitter, welder.

Q. Are you a member of some union, sir? A. Yes, sir.

Q. What union are you a member of? A. 318.

Q. That is out of Cape Girardeau? A. Yes, sir.

Q. Have you had occasion, sir, to work on jobs under the jurisdiction of Pipefitters Local 562? A. I have.

Q. And have you contributed, sir, to the Voluntary Fund? A. I have.

Q. Have your contributions been voluntary? A. Yes, sir.

Q. Have you, sir, attended any of the Voluntary Fund meetings? A. Yes, sir.

Q. Did you attend a Union meeting of 562 before the Voluntary Fund meeting? A. The same night.

Q. Who presided at the meeting, Union meeting, sir? [1,673] A. Ed Steska.

Q. Who presided at the Voluntary Fund meeting? A. Lawrence Callanan.

Q. As a member of 318, sir, and not a member of 562, were you permitted to vote at the Voluntary Fund meeting? A. At the Voluntary Fund meeting, yes.

Q. Were you allowed to vote at the Union meeting? A. No.

Q. Was a vote taken, sir, as to whether or not to continue the Voluntary Fund? A. It was.

Q. And were you permitted to vote on that, sir? A. Yes, sir.

Mr. London: You may inquire.

Cross-Examination.

By Mr. Riddle:

Q. This was a fairly recent meeting? A. Yes, sir.

Q. Within the past few months? A. Yes, sir.

Q. Is that the only meeting of that sort you ever attended? A. In St. Louis, yes.

Q. Well, you never attended any Voluntary Fund meetings [1,674] down in southeast Missouri, did you? A. No.

Q. This is the only one that you attended? A. That's right.

Q. Do you remember the month? A. It was in June, I think.

Q. Of this year? A. Yes, sir.

Q. Just about three months ago? A. Yes, sir.

Q. How long have you been paying into this Fund up here? A. All the time that I have worked in 562's jurisdiction.

Q. That's been for five years or so? A. Since '64.

Q. Since '64? A. Yes, sir.

Q. Do you refer to it as a doby? A. No.

Q. Have you heard the word doby used? A. Oh, I don't know. I probably have. Yeah, I have heard it used; yeah.

Q. Sir, you boys are being paid, I mean are being charged, or something, paying \$2.00 a day for working on a 562 job? [1,675] A. Being what now?

Q. Being charged, or allowed to voluntary contribute, or assessed, or something. In any event, you pay \$2.00 a day, don't you? A. Yes.

Q. Yes. Voluntarily? A. That's right.

Q. Do you know what the St. Louis boys are paying? A. No, I don't know.

Q. Well, at this meeting you attended, did you hear anybody say what they were paying? A. No.

Q. Sir? A. No. No.

Q. Well, you said that there was a vote taken. Well—
A. That vote was whether to continue the Voluntary Fund, or discontinue it.

Q. And did it say to continue it at a certain rate? A. No, it wasn't continued at no certain rate.

Q. Sir, do you know that the St. Louis boys are just being charged 50 cents? A. No, I don't know.

Q. You don't know that? A. No, I don't believe I definitely know it. No.

[1,676] Q. Have you heard it? A. I have probably heard it; yes.

Q. Well, have you or not? A. Yeah, I've heard it.

Q. Sir, did you ever ask anybody for an explanation as to why they were being charged four times as much as you? A. No.

Q. You never asked anybody for an explanation? A. I don't feel like they are charging me, sir.

Q. You think—what do you think the St. Louis boys are doing? Do you think they are being charged, or are they just volunteering? A. I would guess that would be voluntary; yes.

Q. Well, would you rather volunteer 50 cents a day than \$2.00 a day? A. Well, I guess most anyone would.

Q. Yes, sir. Well, then did you ever wonder why you were not allowed to contribute voluntarily 50 cents a day? A. No, I never.

Q. You never thought about that? A. No. No, I wasn't a member of 562, and we run our own assessments, and we run our own—

Q. Assessment down there? A. Assessment and union dues. We have our own union dues.

[1,677] Q. Down at Cape? A. Yes.

Q. And you figure you just let the boys here in St. Louis run their own assessments and union dues? A. Well, I am a-working under their jurisdiction.

Q. And so whatever you say, they abide by it? A. Well, I wouldn't say that.

Q. What would be the alternative if you didn't abide by it? A. There wouldn't be any alternative.

Q. Have you ever tried? A. No. I have always voluntarily contributed. I never did try; no.

Q. Always just gladly gave them \$5.00 out of your paycheck each week? I mean \$10.00? Just gladly threw \$10.00 down? A. Yeah. Yeah, absolutely. Yes, sir.

Q. Forty dollars a month? A. Yeah. They pay me good. Why wouldn't I? Yeah; absolutely.

Q. It's because you get paid by them pretty well is the reason you pay it, isn't it? A. Well, what do you mean, paid by them?

Q. Well, you say you get paid pretty good, so that's [1,678] the reason? A. Our hourly wage rate is good; yes.

Q. Is it any better than the St. Louis boys on the same jobs? A. Same; same pay. On the same job, it is the same pay. Our scale isn't as high in Cape as it is in 562.

Mr. Riddle: That's all.

The Court: Step down. You can go out that way.

(Witness excused.)

RAYMOND SEABAUGH,

being first duly sworn, testified in behalf of the defendants as follows:

Direct Examination.

By Mr. Daly:

Q. Would you state your name, please? A. Raymond Seabaugh.

Q. Where do you reside, Mr. Seabaugh? A. Jackson, Missouri.

Q. What is the street address? A. 806 Coreen Street.

Q. What is your business or occupation? A. I am a pipefitter.

Q. How long have you been a pipefitter? A. For about twenty-two years.

[1,679] Q. And do you belong to a union, Mr. Seabaugh? A. Yes, sir.

Q. What union do you belong to? A. Local 318, Cape Girardeau.

Q. And how long have you been a member of 318? A. Twenty-two years.

Q. Now, who are you presently working for? A. A. E. Burke.

Q. And who are—what is A. E. Burke? A. Plumbing, heating and air conditioning contractor.

Q. And where are they working at the present time? A. Southeast State College.

Q. And how many fitters are on that job? A. Ten.

Q. How long have you been on that job? A. About four months.

Q. Now, is that a job under 318 jurisdiction or 562 jurisdiction? A. The pipefitting is under 562.

Q. 562. Now, have you worked under 562 jurisdiction prior to this? A. Yes, sir.

Q. For how long? Off and on? A. About ten years off and on.

[1,680]. Q. What percentage of the time did you work for 562 jurisdiction rather than 318? A. About 75 per cent.

Q. In other words, about three-fourths of the time you are working under 562 jobs rather than your own local? A. Yes.

Q. Now, do you contribute to the Voluntary Fund? A. Yes, sir.

Q. And how much do you contribute to the Voluntary Fund, sir? A. Two dollars per day.

Q. And has anyone ever told you you had to contribute? A. No, sir.

Q. And has anyone told you if you didn't contribute you could not work on a 562 job? A. No, sir, they haven't.

Mr. Daly: He is your witness.

Cross-Examination.

By Mr. Riddle:

Q. Sir, what do you figure your dues and assessments down at your Cape local costs you a day for eight hours' work? A. Dues and assessments?

Q. Yes. A. The dues is a dollar a day, and—I mean assessments, [1,681] a dollar a day, and the dues is six dollars and a quarter per month.

Q. Sir, what does it cost you to work on a St. Louis job, a 562 job? A. It doesn't cost me nothing. I just voluntarily pay it.

Q. Did you begin to voluntarily pay it the first day you worked on the job? A. Yes, sir.

Q. Signed a card the first, within the first half hour after you arrived? A. After I read the card; yes, sir.

Q. After you read the card and you agreed to voluntarily pay \$2.00? A. Yes, sir.

Q. Every day you worked? A. Yes, sir.

Q. And you have paid it ever since? A. Yes, sir.

Q. Do you know what the St. Louis boys pay who work side by side with you? A. Yes, sir.

Q. What do they pay? A. Fifty cents per day.

Q. Does that appear fair to you? [1,682] A. It does to me, if it does to them.

Q. You mean you think it is fair for you to pay four times as much as they pay? A. Well, they pay a certain per cent, I imagine, out of their check.

Q. Oh. You have been told that they pay more money for assessments? A. No, not for assessments; no, sir.

Q. What else does it cost them besides the 50 cents? A. Well, that I don't know.

Q. You haven't missed a single payment? A. No, sir.

Q. Do you call it a doby? A. No, sir.

Q. Do you hear other boys call it a doby? A. No, sir.

Q. Never heard the word doby referred to? A. We have it at our local at Cape, a doby.

Q. This \$2.00, you don't recognize this as a doby? A. No; Voluntary Fund.

Q. You have been a pipefitter for a long time? A. Yes, sir.

Q. Have you worked at jobs other than 562? A. Yes, sir; 318.

[1,683] Q. Any others? A. No, sir.

Q. Never worked on any job, except one under 318 and 562? A. That's right.

Q. Do you know what this travel card is? Did you ever hear of it? A. You mean when you go from one local to another?

Q. Yes, sir. Do you know what that costs you per month? A. No, I don't really know.

Q. Does \$8.00 a month refresh your recollection? A. I never did have one. I don't know.

Q. Never did have one? A. No.

Q. You'd rather pay the \$8.00 a month than the \$40.00 a month that you are paying into this Fund. If you had a choice, which would you rather do, pay the \$8.00 or the \$40.00? If you had a choice, a free will, a choice of your own? A. I'd rather not answer that.

Q. You can answer it. Just tell this jury whether, or not you'd rather pay the \$40.00 or the \$8.00, if you had a choice? A. Well, if I'd have to leave home, I'd rather pay the \$40.00. When you go out into another local, there is no telling where they send you.

[1,684] Q. My question, sir, would you rather pay the \$8.00 a month as a travel card into 562 than to pay the \$40.00 a month that you are paying now? If you had a

choice, which would you prefer? A. I'd just as soon pay the \$40.00.

Q. You had? A. Yes.

Q. You just like to pay your money out?

Mr. London: Your Honor, I will object to the form of the question.

The Court: Yes. I think it is argumentative, Mr. Riddle.

Q. (By Mr. Riddle) Your testimony is you'd rather pay \$40.00 than \$8.00?

Mr. London: Same objection, Your Honor.

The Court: No.

Q. (By Mr. Riddle) Is this your testimony, sir? A. Yes, sir.

Q. Which would you rather make a day, \$7.00 or \$10.00? A. Well, I'd rather make the \$10.00.

Q. Yet you'd rather pay \$40.00 than \$8.00? A. I would be getting more benefit, probably, out of it.

Q. So then what you are saying is out of the \$40.00 you hope to get some benefits? [1,685] A. Which we have; yes, sir.

Q. Yes, sir. Benefits, such as higher wages; is that right? A. Yes, sir.

Q. So you are paying in order to get something in return, namely, higher wages, or whatever other benefit you could get; isn't that the reason you want to pay the money? A. Yes, sir.

Q. And isn't that the reason why you want to pay your dues and assessments to any union? A. That's right.

Mr. Riddle: That's all.

The Court: All right. We will have our afternoon recess. You can go out that door.

(Witness excused.)

The Court: Members of the Jury, bear in mind the admonition I have given you heretofore.

(Following the afternoon recess, the further following proceedings were had before the jury:)

The Court: It was a long recess, but it was necessitated by other business. OK.

DONALD TRACHTE,

being first duly sworn, testified in behalf of the defendants as follows:

[1,686]

Direct Examination.

By Mr. London:

Q. State your name, sir. A. Donald Trachte.

Q. Spell that, please. A. T-r-a-c-h-t-e.

Q. Where do you live, Mr. Trachte? A. 1060 Paddock Drive.

Q. Married man? Family? A. Yes.

Q. Are you a member of Pipefitters Local 562? A. Yes.

Q. Have you contributed to the Voluntary Fund? A. I have.

Q. Did you sign a Voluntary Fund card? A. Yes, sir.

Q. Are your contributions to the Fund voluntary? A. Yes.

Q. Were you ever told that you had to give to the Fund in order to work? A. No.

Q. Have you ever attended any of the Fund meetings?
A. Yes.

Mr. London: You may inquire,

[1,687] **Cross-Examination.**

By Mr. Riddle:

Q. Sir, about these Fund meetings, when did you first hear about this Fund? A. I believe it was in '63.

Q. '63? A. Yes.

Q. Who did you hear about it from? A. I don't recall.

Q. Where were you when you heard about it? A. I don't recall.

The Court: Speak into the mike, will you please, Mr. Trachte?

The Witness: I don't recall.

Q. (By Mr. Riddle) Well, now, you say in '63. Do you remember what part of '63? A. Not exactly.

Q. Early part? Middle part? A. Probably the latter part.

Q. Probably the latter part? A. Yes.

Q. Sir, there has been evidence heretofore offered that the Fund began, so-called Voluntary Political Fund, around January 1 of 1963. Did you ever attend an organizational [1,688] meeting of it? A. Yes, I have.

Q. The organizational meeting in the early part of 1963? January? A. Well I don't remember exactly the date.

Q. Well, let me ask you this: Did you attend an organizational meeting? A. You mean a Voluntary Fund meeting?

Q. Yes. A. Yes, I have.

Q. I am talking about the first one. A. Oh, I don't know whether I did or not.

Q. You mean you don't know whether you attended a meeting or not, an organizational meeting? A. I don't know whether I—

Q. A meeting for the purpose of just setting up the Fund? A. I don't know whether I did or not.

Q. Well, do you think you'd remember it if you attended it? A. Possibly.

Q. Well, when do you—the best you can recall, what is the very first meeting of such a Fund that you ever attended? A. I believe sometime in the summer of '64.

Q. In the summer of '64. I take it that means that the [1,689] Fund had been in existence for quite some time before that? A. I believe so.

Q. Well, the meeting you attended, is, that the first time you ever heard of it? A. No. I heard of it, but I don't recall the date.

Q. Well, now, sir, somewhere along the line you say you heard of it. As I recall your testimony, you don't know who you heard it from. To refresh your recollection, did you hear about it for the first time down at the hall from some of the officers of the Union? A. I don't know whether I did or not, because at the time I didn't think that I'd ever be asked.

Q. Well, do you remember the first date that you ever were asked to sign a card? A. No, I don't.

Q. You don't remember that? A. No. No, I don't.

Q. Well, do you remember if it was in the early part of '63? In January of '63? A. I can't say for sure the first time I was asked to sign a card.

Q. Do you remember who asked you to sign a card, the first one you ever saw and signed? A. I can't say for sure the first time.

[1,690] Q. Well, do you remember where it was? A. No, I don't.

Q. Do you remember the first money you ever paid into the Fund? A. No, I don't remember the first time I paid into the Fund, the first money.

Q. Well, did you pay into the Fund before you ever attended a meeting? A. Probably.

Q. Well, when you first paid into the Fund, did you make any inquiries about the type of organization it was? A. I believe I did.

Q. And who did you make an inquiry of? A. Probably some of the men on the job.

Q. Some of the men or— A. I mean there had been talk, but I can't name names or the date. I mean it's like—

Q. Sir, did you start paying into the Fund in early January of 1963? A. If that's when the Fund started.

Q. You began paying into it? A. Yes, sir; yes.

Q. Now, sir, how did you know how much to pay into it at that time? [1,691] A. Well, maybe I went to that meeting then. I mean I don't know for sure whether I was at the first one or not. I attended most of the meetings, so maybe I was, but as far as if you ask me what the date was, I don't know for sure.

Q. Well, sir, is it fair to say that you weren't in on the organization of it? A. That I personally wasn't in it?

Q. Yes. A. You mean that I wasn't at the first meeting?

Q. Yes. Whenever it was organized, you were not there and didn't take a part in it? A. I don't know for sure whether I was or not.

Q. Well, sir, do you know much about this Fund at all? A. A little.

Q. What is it that you do know about it? What little do you know? A. Well, I know it is a political fund to help political candidates, educational.

Q. And you know you pay into it? A. Yes, I do.

Q. Do you know how much of it is used for educational purposes? A. Not for sure.

Q. Not for sure. Well, do you have any idea? [1,692]
A. No.

Q. Do you know how much is used for charity purposes? A. No.

Q. Well, how much of it is even used for political purposes? A. Not for sure.

Q. Well, by "for sure" do you have any idea whether it is one per cent or seven per cent? A. I have never inquired.

Q. Sir? A. I have never inquired.

Q. And nobody has ever told you? A. Nobody has ever told me personally; no.

Q. All of a sudden you just began paying into it? A. When the Fund started.

Q. And you paid into it every week since then? A. Yes.

Q. You paid whatever the rate that was established? A. I pay 50 cents a day.

Q. There was a time when you paid a dollar a day. Do you remember that? A. Yes.

Q. A time when you paid \$5.00 a week, do you remember that? [1,693] A. Political!

Q. Oh—— A. Or Voluntary Fund?

Q. Yes. A. Yes, I remember.

Q. Do you remember that? A. Yes, sir.

Q. Well, when you first began paying, did you begin paying \$5.00 a week? A. I believe so.

Q. All right. Did you vote on that proposition as to whether it should be \$5.00 a day, or \$10.00 a day, or 50 cents a day, or any figure? A. I don't know.

Q. Sir? A. Whether I was there for that meeting or not.

Q. Yes, sir. Sir, isn't it a fact that they just told you how much to pay, and you paid; isn't that the fact of the matter? A. No.

Q. Well, you are saying, as I understand your testimony, that you didn't participate in any decision as to what the amount of payment ought to be?

Mr. London: Your Honor, we object to this line of [1,694] questioning as being irrelevant and immaterial to the issues in this case.

The Court: Be overruled.

Q. (By Mr. Riddle) Do you understand the question, sir? A. No.

Mr. Riddle: What was the last question that I asked?

(Thereupon the reporter read the question as follows; "Well, you are saying, as I understand your testimony, that you didn't participate in any decision as to what the amount of payment ought to be?")

Mr. Riddle: You are saying that you didn't participate in any decision as to what the amount of payment ought to be?

A. You mean was I at the meeting?

Q. No. I am just saying whether or not you participated in any decision to set the rate at \$5.00 a week, or a dollar a day, or any other rate? A. I don't know how to—If I was at that meeting, I voted to OK it.

Q. Did you vote for anything else, that you recall? A. No, I don't.

Q. You don't recall? A. No.

Mr. Riddle: I have nothing further to ask this witness.

[1,695] The Court: Any redirect?

Mr. London: No, sir.

The Court: Go out that door.

(Witness excused.)

JOHN R. CASEY,

being first duly sworn, testified in behalf of the defendants as follows:

Direct Examination.

By Mr. Randall:

Q. Mr. Casey, would you state your full name, please, sir? A. John Robert Casey.

Q. Where do you live, Mr. Casey? A. Festus, Missouri.

Q. And, Mr. Casey, are you a member of Pipefitters Local 562? A. I am.

Q. How long have you been a member? A. Twenty years.

Q. Are you familiar with the Voluntary Political Fund? A. Yes, sir.

Q. Do you recall when it was first started? A. In '63. The exact date, I can't remember.

Q. That is as far as you can remember, '63? A. Yes, sir.

[1,696] Q. Did you sign a Voluntary Contribution Agreement card? A. I have.

Q. And have you contributed to the Voluntary Fund? A. I have.

Q. Were your contributions voluntary? A. Yes, sir.

Q. Did anyone ever tell you you had to make these contributions? A. No, sir.

Mr. Randall: You may inquire.

Cross-Examination.

By Mr. Riddle:

Q. Sir, were you at any meeting in January of 1963 when this Fund was created? A. I don't believe I was at that meeting, no, sir. I was working out of town at the time and couldn't get in.

Q. You were working out of town? A. Yes, sir.

Q. And you couldn't come in? A. No, sir. I don't drive at night, and, therefore, it was late. I didn't come in.

Q. Where were you working at that time? Do you recall? A. The Tom Sauk Powerhouse.

Q. When is the first time you ever heard of it? [1,697] A. Shortly after that meeting.

Q. Who did you hear about it from? A. From my general foreman on the job.

Q. From your general foreman? A. Yes.

Q. Did he come around and talk to you about it? A. Yes, sir; brought the cards around for us to sign.

Q. He brought the cards around for you to sign. This was the first word you ever heard of it? A. Yes, sir.

Q. Did he explain to you anything to you about this so-called Fund? A. Yes, sir, and what I read on the card; yes, sir.

Q. Did he tell you that they were going to have officers? A. Yes, sir.

Q. Who did he tell you the officers were going to be? A. That, he didn't know. There was a committee set up, and he didn't tell me who they were; no.

Q. Did he tell you who the committee members were? A. Not at that present time; no.

Q. Did you ever hear about who the committee members are at any time? A. Yes, sir.

Q. You mean this Fund has a committee? [1,698] A. Voluntary Fund, yes, sir.

Q. Who are on the committee? A. Well, I can't remember right at the time, right now. I can't remember.

Q. Have you ever heard their names? A. I probably have.

Q. Well, now, sir, is this committee something that you just imagined yourself, or do you know that a committee is in existence, or, for that matter, ever was in existence? A. Well, I know there is a committee. Like I say, I can't remember the names.

Q. How do you know that there is a committee? A. Well, I've heard the other fellows talking about the committee on the Voluntary Fund.

Q. You don't know whether it is Mr. Callanan or Mr. Lawler, or Mr. Seaton, or Mr. Steska, or Mr. Burke? A. No, sir, I just can't remember who is on it.

Q. Did you have any part to play in who was going to be on this so-called committee? A. Not being at the meeting, no.

Q. So when you signed this card, were you told how much your contributions would be per week, or day? A. Per day, yes, sir.

Q. You were told how much they'd be? [1,699] A. Yes, sir.

Q. And how much were you told they'd be? A. Fifty cents for eight hours' working time.

Q. Back at that time, fifty cents for eight hours, or would it be a dollar? A. Fifty cents for Political Fund, to the best of my knowledge.

Q. You were told that is what it would be? A. Yes, sir. Voluntary Fund.

Q. Now, were you given an opportunity to volunteer to pay more than fifty cents? A. No, sir.

Q. You were just told what it would be? A. That it was voluntary. He said if you wanted to pay this, you can sign this, so I signed it.

Q. Now what about the amount that you wanted to pay? Did they tell you that amount, or did you put that on your card? A. They said it had been voted upon at 50 cents for each eight-hours' working time.

Q. Then, as I understand it, sir, you were told that somebody else had decided what you were going to voluntarily pay? A. I had to be told, not being at the meeting. It didn't help at the meeting.

[1,700] Q. Sir, is this correct, that you were told by somebody else? A. Yes, sir.

Q. What you, Mr. Casey, was going to voluntarily pay? Is that right? A. If I wanted to contribute to it.

Q. Yes. And you didn't have anything at all to do with the amount that was fixed? A. No, because I wasn't at the meeting.

Q. Well, when dues and assessments are discussed at the meetings, I assume that you just go along with whatever the membership assesses, and whatever they decide that the dues will be? A. No, sir.

Q. You don't? A. We are allowed to vote.

Mr. Riddle: I have nothing further to ask this man.

The Court: All right. Any redirect?

Mr. Randall: No, Your Honor.

The Court: Step down. You can go out that door.

(Witness excused.)

DON SCHAEFER,

being first duly sworn, testified in behalf of the defendants as follows:

[1,701]

Direct Examination.

By Mr. Daly:

Q. Would you state your name, please? A. Don Schaefer.

Q. Where do you reside, Mr. Schaefer? A. Dixon, Missouri.

Q. What is your business or your occupation? A. I am working as a steamfitter.

Q. And do you belong to a local union? A. I belong to Local 279, Jefferson City.

Q. How long have you been a member of Local 279? A. Since 1961.

Q. And how long have you been pipefitting? A. Well, since 1966; spring of 1966.

Q. Were you plumbing? A. Well, ours is a combination local.

Q. 279 has both plumbers and pipefitters; is that right? A. Yes, sir.

Q. And you were a plumber prior to 1966? A. A plumber; yes.

Q. Now, since you have been a pipefitter and you have been a member of Local 279, have you had occasion to work on some job that Local 562 had jurisdiction of? A. Yes, sir, I have.

[1,702] Q. And are you familiar with the Voluntary Fund? A. Yes, sir.

Q. And did you sign a Voluntary Contribution card? A. Yes, I did.

Q. And do you contribute to the Fund? A. I contribute to the Voluntary Fund; yes.

Q. Did anybody ever tell you you had to contribute? A. No, sir.

Q. Are your contributions to this Fund voluntary? A. Yes, sir.

Q. Now, did you ever work on any jobs under 562 jurisdiction that you did not make any contributions? A. Yes, sir.

Q. And what job was that? A. That was the Chesebrough-Ponds job.

Q. Where did that take place? A. In Jefferson City.

Q. And how many men were working on that job? Pipe-fitters? Do you recall? A. No, I don't. I mean I don't know how many; no.

Q. Could you give us—more than five? A. Yes, sir. There was, I would say there was in the neighborhood of twenty-five at the most, as fitters.

Q. Were those 279 men, or 562? [1,703] A. A majority of them were 279 men.

Q. How about the foreman and general foreman? A. 562; yes, sir.

Q. And you made no contribution at that time? A. No contributions.

Q. Did you work on that job, throughout that job? A. Yes, sir.

Q. Anybody tell you if you didn't contribute, you couldn't work on this job? A. No, sir.

Mr. Daly: Your witness.

Cross-Examination.

By Mr. Riddle:

Q. Sir, you have worked on other jobs in addition to the Chesebrough-Pond job? A. Yes, sir.

Q. That was under 562's jurisdiction? A. Yes, sir.

Q. What are those other jobs? A. I worked the Bixby, Missouri, job, on the lead plant.

Q. Bixby, Missouri? A. Yes, sir.

Q. All right. What else? A. At Rolla, Missouri.

[1,704] Q. And at Rolla? A. Yes, sir.

Q. What else? A. I am presently working at Ft. Leonard Wood.

Q. Ft. Leonard Wood. Any other jobs besides those three and the Chesebrough-Pond? A. No, sir.

Q. Which one of these jobs did you work on first? A. Chesebrough-Ponds.

Q. That is the first job you ever worked on? A. Yes, sir.

Q. Under 562? A. Yes, sir.

Q. Sir, you live in Dixon? A. I live in Dixon, Missouri.

Q. Now, at the time that you began working on this Chesebrough-Ponds job, there was quite a controversy about which local would have jurisdiction of this job. Do you recall? A. Yes, sir.

Q. And the controversy was between your local and the St. Louis Local 562? A. Well, there was no controversy on it. It was awarded through the U. A. to 562.

[1,705] Q. Yes, sir. A. I mean it wasn't awarded to our local.

Q. It wasn't awarded your local? A. No, sir.

Q. Well, where did the controversy arise? A. What do you mean?

Q. You said there was some controversy? A. Well, there was no controversy on it. I didn't think so.

Q. You didn't think so? A. No.

Q. You didn't attend any meetings over in your local where the question was— A. Yes, I did.

Q. —where the question was discussed, namely, whether that ought to be a Jefferson City Local job or St.

Louis Local job? A. Yes, sir, but it was awarded through the U. A. to 562.

Q. And your business agent contended that it ought to be his job. Isn't that what he told your membership?

Mr. London: I will object to what may have been said, Your Honor. That would certainly be hearsay.

The Court: Well, it is hearsay.

[1,706] Mr. Riddle: It will be tied in Your Honor.

The Court: All right.

The Witness: Would you repeat that, sir?

Q. (By Mr. Riddle) Yes. Didn't your business agent take the position at your meeting that that job, Chesebrough-Pond, should be within the jurisdiction of the Jefferson City local? A. Well, our business agent, before the one that is present business agent, said that, but our present agent didn't say that.

Q. Well, was there a change in business agents along about that time? A. Yes, sir.

Q. The old business agent claimed that that should be a Jefferson City jurisdiction? A. Yes.

Q. And he left? A. Yes, sir.

Q. And a new man came on? A. Yes, sir.

Q. So the new man came on. He didn't object to it? A. Well, I had never heard him say anything; no, sir.

Q. All right, sir. Now, when you talk about controversy, that was the controversy that you referred to also, isn't it? A. I wouldn't say it was a controversy. I knew there [1,707] was some objection from our local.

Q. Yes, sir. And what was the objection, if you know? A. Like you say, the business agent thought it should be his job, and it was awarded through the U. A. to 562.

Q. Wasn't it discussed at that time if it was under the jurisdiction of 562, that you boys in Jefferson City would have to pay \$2.00 a day?

Mr. London: I will object to this again, Your Honor. It is hearsay. We don't even know who we are talking about now. I don't know how we can tie in hearsay.

The Court: What is your objection?

Mr. London: I object. It calls for hearsay.

The Court: What are you objecting to?

Mr. London: The question. He just asked the question if he didn't, in fact, hear something, which would obviously call for hearsay.

The Court: All right. Were you requested to pay \$20.00 a day on that job?

The Witness: No, sir.

The Court: OK.

Q. (By Mr. Riddle) So you didn't pay \$2.00 a day on it?
A. We were never requested to pay anything.

Q. All right, sir. Were you told in advance that you wouldn't have to pay \$2.00 on that job? [1,708] A. There was a meeting between our executive board, our business agents and officers of 562, and 562 told our officers, our business agent, that we wouldn't have to pay it.

Q. Yes, sir. It was specifically exempted and waived by an agreement, so far as you understood? A. To state good relationships between the two locals.

Q. Yes, sir. And that is why you didn't pay it at that time, isn't it? A. Yes, sir.

Q. And that is why you didn't voluntarily pay it at that time, isn't it? A. There was nobody asked us to pay it.

Q. And you didn't voluntarily have to pay it? A. No, sir. Or at any time.

Q. Yes, sir. Now, what about on the Bixby job? A. I volunteered to pay it there.

Q. And you signed the card, the first day you showed up for work? A. Yes, sir. I got ahold of the steward and asked him if I could contribute to that Fund.

Q. And did you—is that the very first day you went on the job? A. Yes, sir.

Q. And that is because you knew it would cost you [1,709] \$2.00 a day to work on the jobs; is that correct? A. No, sir. I volunteered it.

Q. But you didn't volunteer on the Chesebrough-Pond job? A. Well, we weren't requested to even volunteer.

Q. Why did you volunteer on the Bixby job, and you didn't on the Chesebrough-Pond job? A. They didn't want us to.

Q. That's right. Your people didn't want you to? A. No, sir, it is not that. We didn't have to pay it on the Ponds job.

Q. You didn't have to pay it? A. No, sir. They wouldn't let us volunteer.

Q. They wouldn't let you volunteer? A. No, sir.

Q. I see. But they would let you pay it on the Bixby job? A. I don't know. I volunteered it.

Q. And they would let you pay it on the Rolla job? A. I volunteered it there.

Q. And they let you pay it on the Ft. Leonard Wood job? A. I volunteered it there.

Q. Each and every Monday morning you volunteered it? A. Yes, sir. And on the Rolla job we paid it on Friday evening.

[1,710] Q. But you never failed to pay it, did you? A. No, sir, I didn't.

Q. Yes, sir. Now, sir, why did you volunteer to pay it on one job, and you didn't on the other job in Jefferson

City? Tell this Court and jury that. A. They wouldn't accept it on the Jefferson City job.

Q. Did they tell you why they wouldn't accept it? A. To state good relationships between the two locals.

Q. Were you just jumping up and down to pay it on that Chesebrough-Pond job?

Mr. Daly: I will object to that question, Your Honor.

Mr. Riddle: I will strike that. Were you anxious to pay it on the Chesebrough-Pond job?

A. I would have liked to pay it.

Q. You are telling this Court and jury that you couldn't have come down to the Union hall down here in St. Louis, and couldn't have paid your \$2.00 a day? A. I didn't come down here.

Q. You didn't try that? A. No, sir. When they didn't accept it, wouldn't accept it, I didn't inquire about it any more.

Q. Yes, sir. Sir, did you pay it when you began to work at Bixby, because you thought that this was necessary in order to work on the job? [1,711] A. No, sir. I volunteered it.

Q. You never got that idea from any place? A. No, sir. No, sir. The other men were paying it, and I inquired about it, and I decided to pay it.

Q. Ten dollars a week? A. Yes, sir.

Q. Forty dollars a month? A. Yes, sir.

Q. Do you have a family? A. Yes, sir.

Q. Children? A. Yes, sir.

Q. How many? A. I have three living and one dead.

Q. Yes, sir. Do you have a home? A. Yes, sir.

Q. Car? A. Yes, sir.

Q. Are you making payments on your car? A. Yes, sir.

Q. Making payments on your home? A. No. I rent.

Q. You rent? A. Um hmm.

[1,712] Q. Are you making payments on your refrigerator and that sort of thing? A. No, sir. No, sir.

Q. You are telling this Court and jury you'd rather take this \$40.00 that you are paying a month and pay it to this Voluntary Fund than to apply it on the indebtedness on your automobile? A. Yes, sir.

Q. Sir, do you have any obligations to banks or finance companies? A. No, sir.

Q. You don't owe any of them anything? A. Just on my car.

Q. Just on your car? A. Yes, sir.

Q. What are your monthly payments on it? A. I don't know. My wife takes care of that.

Q. Sir, one other thing. You mentioned there was an agreement for good public relations between your local in Jefferson City and the local here in St. Louis. Was that an agreement between Mr. Callanan and your business manager over there, so far as you know? A. I think it is between officers of our local and officers of 562.

[1,713] Q. Yes, sir. Sir, do you know why the officers of 562 would be in a position to waive or refuse to accept your voluntary contributions in Jefferson City? Do you know that?

Mr. Daly: Your Honor, I will object to that. It calls for speculation.

Mr. Riddle: He can say if he knows.

The Court: He may answer if he don't.

The Witness: Would you say it again?

Q. (By Mr. Riddle) Do you know why the officers of Local 562 would be in position to waive or exempt the

payment, or to refuse to accept Voluntary— A. No, sir, I don't.

Q. You don't know that? A. No, 'sir. Other than it would be good faith.

Q. Sir? A. Other than it would be in good faith to cause good relationship.

Mr. Riddle: Yes, sir. I have nothing further of this witness.

The Court: Any redirect?

Redirect Examination.

By Mr. Daly:

Q. Mr. Schaefer, you are still a member of Local 279, are you not? A. Yes, sir.

[1,714] Q. What is your salary, or your rate of pay? A. Right now, I don't know, sir. I couldn't tell you that. I'd have to check in with my business agent and find out.

Q. Is the rate of pay that you work under when you work on a 562 job higher? A. Yes, sir.

Q. About how much higher would it be? A. I would say it would amount to around seventy to eighty dollars per week more.

Q. You also, when you work on a 562 job, you are entitled to two dollars and seventeen and a half cents per hour into the pension, into the Welfare? A. Yes, sir.

Q. Have you ever collected from the Welfare? A. Yes, I have.

Q. Now, how long did you personally work on the Chesebrough job? A. I worked from June of 1966 'till May 15, of 1967.

Q. Almost a year; is that correct? A. Yes, sir.

Mr. Daly: I have no further questions.

The Court: Any recross?

Mr. Riddle: I don't believe so, Your Honor.

The Court: Do you have something, Mr. Randall?

[1,715] Mr. Randall: No, Your Honor.

The Court: You may go out that door.

The Witness: Thank you, sir.

(Witness excused.)

BENJAMIN F. MILLER,

being first duly sworn, testified in behalf of the defendants as follows:

Direct Examination.

By Mr. Randall:

Q. Mr. Miller, would you state your full name, please, sir? A. Benjamin F. Miller.

Q. Where do you live? A. I live at Festus, Missouri.

Q. Are you a member of Pipefitters Local 562? A. Yes, sir.

Q. How long have you been a member, sir? A. Ever since '46.

Q. 1946? A. (Indicating yes.)

Q. Do you recall, sir, when the Voluntary Political Fund was first started? A. Not the exact date. No, I couldn't give you that.

[1,716] Q. Do you have any recollection how long ago, sir? A. Been quite some time.

Q. Twenty years? A. Yes, around that.

Q. Now, sir, have you always contributed to the Voluntary Political Fund? A. Yes, sir, I sure have.

Q. Did you sign the Voluntary Contribution cards? A. Yes, sir.

Q. And do you remember when you signed those, when they were started? A. Not the exact date on them, no. It's been quite a while.

Q. And, sir, have your contributions been voluntary? A. Yes, sir.

Q. Did anyone ever tell you you had to contribute to it? A. No, sir.

Q. Or that it was necessary in order to work, or anything of that nature? A. No, sir.

Mr. Randall: You may inquire.

Cross-Examination.

By Mr. Riddle:

Q. Sir, you testified that you had been paying into a [1,717] fund for a period of time before January 1 of '63? A. Well, it probably—before '63?

Q. Yes, before that time. A. I don't recall that. I couldn't say exactly on the date.

Q. Do you remember the time that you first saw a card and signed it? A. Not the exact date on it, no, but it's been some time.

Q. January 1 to 15 of '63 refresh your recollection? A. Along, probably, in there someplace.

Q. Who brought that card to you? A. Who brought it to me?

Q. Yes. A. Well, it was brought by the foreman; sent out by the hall.

Q. By the Union hall? A. Yes.

Q. Do you know who in the Union hall sent it out? A. No, I wouldn't say exactly.

Q. When you first saw those cards, did anyone explain to you what they were for? A. Yes, sir.

Q. Who did the explaining? [1,718] A. Well, we had a meeting on that that was for the Political Fund only.

Q. You mean right there at that time? A. Yes, sir.

Q. Where was that meeting held? A. Held in the Union hall.

Q. In the Union hall? A. Yes.

Q. On Pierce Avenue? A. Yes.

Q. Who conducted that meeting? A. Well, all of us were there at the time.

Q. You say, "all of us." You mean all 1200 of you? A. Well, the officers were the ones that conducted the meeting.

Q. Officers of what? A. Of the local.

Q. Officers of Local 562? A. 562.

Q. And who were the officers then? Name them by name. A. Well, there was Mr. Callanan.

Q. Yes? A. And Doc Lawler.

Q. Mr. Lawler, yes, and who? Mr. Seaton? [1,719] A. All the members were there.

Q. Mr. Steska? A. Yes, Mr. Steska was at the meeting.

Q. Mr. Burke? A. Mr. Burke? He might have been. I wouldn't say that. Sometimes he don't get there.

Q. All right. This was when you first had it explained to you? A. First had it—

Q. This is the first time the proposition was ever explained to you? A. Oh, no. We had that before. That is when it was brought up to increase it.

Q. Brought up for what purpose now? A. To increase it. The Fund.

Q. To increase the Fund? A. Um hmm.

Q. You mean to increase the amount of the payments? A. Yes.

Q. Was any explanation given to you as to why the increase was necessary? A. No. That was left strictly up to

the member. If he wanted to get in on it, why that was all right. If he didn't, he didn't have to.

[1,720] Q. Well, what was the purpose for the meeting then? A. Well, to see if we wanted to carry on through with it.

Q. Well, were you making a change then to — A. Well, not more than we had before; only just a little more in the Fund.

Q. You were just putting a little more into the Fund? A. Um hmm.

Q. Well, did Mr. Callanan talk to you fellows who were there that night? A. Well, he talked to all of us about if we wanted to.

Q. All right. Did he tell you why an increase was necessary? A. Well, not exactly that, no, that to carry on the business, that he thought it would be a good idea if we did.

Q. All right. Did he tell you how much you ought to vote for? A. No, sir. That was strictly up to you what you wanted to put in.

Q. Well did you decide at that meeting that night what you wanted to put in? A. No, we didn't decide on any certain amount, or anything about it; just if we wanted to put in, we could.

Q. Well, now, you say the purpose was to increase it? A. Well, we talked that we should —

[1,721] Q. Increase it from what to what? A. Well, from the first we had of it.

Q. Increase it from what figure to what figure? A. Well, I don't know the exact figure on it. There was no exact figure. It was just what you wanted to put in. It might have run to a dollar and a half, maybe.

Q. Were you told that you ought to, within your own mind, decide to increase your contribution? A. No. I had that in mind when we talked about it.

Q. Well, when you were at this meeting, did you decide just what you wanted to contribute yourself? A. No. No certain amount; no.

Q. What amount did you start contributing after that? A. Whatever I felt like putting in.

Q. What did you feel like putting in the next week after that meeting? A. Oh, we put in a dollar.

Q. A dollar a day, five dollars a week? A. Five dollars a week.

Q. And what had you been putting in before that? A. I think, if I remember right, I think around fifty cents.

Q. So, from that day on, you put in a dollar a week? A. Well, not all the time. If we didn't want to put [1,722] that much in, we didn't do it.

Q. Sir, was there ever a week when you put in less than a dollar a day for eight hours' work?

The Court: He said a dollar a week.

Q. (By Mr. Riddle) Did you mean a dollar a week, or a dollar a day? A. A dollar a week? No, I don't recall that.

Q. Sir, maybe I didn't get your testimony clear. Did you say at this meeting in '63 you decided from there on that you'd put in a dollar a week, or a dollar a day? A. In '63, I told you I couldn't remember in '63 what we done at that time.

Q. Well, at any time, did you ever put in five dollars a week? A. No.

Q. You never did put in five dollars a week? A. Not any more than—I don't recall that. No, not five dollars a week.

Q. What job are you working on now? A. I am working on the cement plant out in Festus.

Q. What are you putting in now? A. A dollar.

Q. A dollar for what? A. Voluntary.

[1,723] Q. You put in just a dollar? A. Yes.

Q. Irrespective of how much you work? A. Sir?

Q. Irrespective of how many hours you work, you just put in a dollar? A. Yes. It don't make any difference.

Q. If you work five days, you put in a dollar? A. That's right. If you want to put more, you can put more.

Q. Have you ever put more than that? A. Oh, yes; a few times.

Q. At one time? A. Um hmm.

Q. Was that to catch up from the back payments, or just because you wanted? A. No, there was no payments to it.

Q. No payments at all? A. No.

Mr. Riddle: I have nothing further to ask this witness.

Mr. Randall: No redirect.

The Court: All right. You may go out that door. Call your next witness.

(Witness excused.)

[1,724]

JOHN KIELY,

being first duly sworn, testified in behalf of the defendants as follows:

Direct Examination.

By Mr. London:

Q. State your name, sir. A. John Kiely.

Q. Where do you live? A. 2255 Oxford, in Florissant.

Q. Mr. Kiely, are you a member of Pipefitters Local 562? A. Yes, I am.

Q. And do you contribute to the Voluntary Fund? A. Yes, I do.

Q. Have you signed a Voluntary Fund card? A. Yes, I have.

Q. Are your contributions to the Fund voluntary? A. Yes, they are.

Q. Anybody ever tell you you had to contribute in order to work? A. No.

Q. Do you attend any of the Voluntary Fund meetings? A. Yes, I do.

Mr. London: You may inquire.

[1,725]

Cross-Examination.

By Mr. Riddle:

Q. You have been a member of 562 how long? A. About seven and a half years.

Q. You have been working as a journeyman all that time? A. No. Three years as an apprentice.

Q. When did you get to be a journeyman member of the local? A. About 1963.

Q. What month in '63? A. Well, I believe it was February. I'm not quite sure.

Q. February? A. I think so.

Q. Were you working in January? A. Yes, I was.

Q. Now, when you say you signed a card— A. Yes, I did.

Q. —how soon after you became a journeyman did you sign the card? A. My first day on the job as a journeyman.

Q. You signed a card right there? A. Yes, I did.

Q. Who brought it around to you? A. Well, I believe it was the steward on the job. I'm [1,726] not quite sure.

Q. You say for a month or so in 1963 you were working as an apprentice? A. Right.

Q. And you weren't asked to sign a card as an apprentice? A. No, I wasn't.

Q. Were you making the same money as an apprentice as you are making as a journeyman? A. No.

Q. You were making less money? A. Less money; right.

Q. Were you given a chance to make any contributions into this Fund as an apprentice? A. No, I wasn't.

Q. Did you try? A. No, I never.

Q. Did you want to? A. Well, I would have if I had the money, but I didn't have the money.

Q. I see. Well, this first day that you were on the job as a journeyman, did you agree to pay a certain amount then? A. Yes, I did. I don't recall the exact amount. I think it was 50 cents a day.

[1,727] Q. Fifty cents a day? A. I believe that; yes.

Q. Is that when your dues and assessments began also? A. No. I paid my dues and assessments as an apprentice.

Q. Oh, you did. Do you know why you weren't allowed to pay while you were an apprentice into this Fund, although you were paying dues and assessments? A. Well, I would imagine because I didn't make half as much money as a journeyman.

Q. Well, your assessments were based upon a percentage of what you earned as an apprentice, I take it? A. Well, at that time I don't know what the percentage quite was, but I believe they were.

Q. Well, as a for instance, wouldn't they let you even put in twenty-five cents a week? A. Well, there was nothing, nothing involved.

Q. They wouldn't let you put in any small amount? A. No.

Q. But you say that your willingness to pay into this Fund had its beginning the day that you began to work as a journeyman with the increase in pay? A. No, I

wouldn't say that. I was willing to pay when I first started that local.

[1,728] Q. You mean even as an apprentice? A. Right.

Q. I'm not sure I understand you. Did you try to pay a small amount? A. No, but I was willing to. I would have if—

Q. If they had asked you to? A. If they would have taken it.

Q. Well, do you know they wouldn't take it? A. Well, I am sure they wouldn't have. I am sure, as an apprentice, I am sure they wouldn't have.

Q. In fact, you knew that apprentices weren't expected to pay? A. Right.

Q. But as a journeyman you were expected to pay it; isn't that the fact of the matter? A. No, sir.

Q. Who told you you weren't expected to pay it as an apprentice? A. Well, I believe when we first came in, when they talked to us they said they would not ask us to pay, they would not take any money from us.

Q. Which did they say, they wouldn't ask you or they wouldn't take money from you? Tell this jury what they told you. [1,729] A. I believe it was they wouldn't take money from us.

Q. You believe. Are you sure of that? A. Well, that is as far as I can remember.

Q. Yes. They told you then that they would take the money from you when you became a journeyman? A. No, they didn't say that.

Q. They said you'd get an opportunity to contribute? A. They didn't say that either.

Q. What did they say? A. Nothing along those lines that I can remember.

Q. How did you know that you wanted to start paying as soon as you became a journeyman? A. Well, I just knew that everybody else did.

Q. You thought it was a part of the price of working, didn't you? A. No, I never.

Q. What are you paying now a day? A. Fifty cents a day.

Q. When it was a dollar a day, did you pay at that rate? A. Yes, I did. I believe so.

Q. Were you pleased when it was reduced from a dollar a day to fifty cents? A. Well, it didn't bother me one way or the other.

Q. You'd just as soon pay a dollar as fifty cents? [1,730] A. No. I was happy to have the extra fifty cents, if that is what you mean.

Q. Well, if you were happy to have the extra fifty cents, why did you not stop paying the one dollar per day earlier? A. Well, because I kind of believe the money was needed for political reasons.

Mr. Riddle: That's all.

The Court: Any redirect?

Mr. London: No.

The Court: You may go out that door.

(Witness excused.)

RICHARD SULLIVAN,

being first duly sworn, testified in behalf of the defendants as follows:

Direct Examination.

By Mr. Daly:

Q. State your name, please. A. Richard Sullivan.

Q. And where do you live, Mr. Sullivan? A. 815 Florland Drive, Florissant.

Q. And are you buying that place out there? A. I am.

Q. With whom do you reside? [1,731] A. Pardon?

Q. With whom do you live? A. My wife and four kids.

Q. What is your business or occupation, Mr. Sullivan?

A. I am a pipefitter.

Q. And do you belong to a union? A. I do.

Q. What local do you belong to? A. 562.

Q. How long have you been a member of Local 562?

A. Seventeen years.

Q. That would go back to maybe '51? A. 1951.

Q. I see. Now, are you familiar with the Voluntary Fund? A. I am.

Q. And did you sign a Voluntary Contribution card?

A. I did.

Q. And do you contribute to the Fund yourself? A. I do.

Q. And are these contributions voluntary on your part?

A. They are.

Q. Have you ever collected for the Fund? A. I have.

Q. And did you ever tell anybody they had to pay into [1,732] the Fund? A. No, sir.

Q. Did anybody ever tell you that you had to pay into the Fund? A. No, sir.

Mr. Daly: Your witness.

Cross-Examination.

By Mr. Riddle:

Q. Sir, are you a steward? A. No, I am not.

Q. Have you ever been? A. I have.

Q. At the time you were collecting the money, were you? A. No, sir.

Q. At the time you were collecting money, were you a foreman? A. I was a foreman; yes, sir.

Q. As a foreman, you have the authority to assign a man to this job or that job? A. I did.

Q. Some jobs are harder than others? A. True.

Q. Some are relatively easy? A. Not too easy, but they are.

[1,733] Q. I take it you haven't missed a payment? A. No, sir, I have not.

Q. Never been behind? A. No, sir.

Q. Do you know what kind of payments I am talking about? A. Yes, sir.

Q. I am talking about assessments to the Union. A. Right.

Q. You haven't missed one of them at all? A. The assessment, no, sir.

Q. What about the other assessments? A. Well, we only have one assessment for the Union.

Q. Have you missed any type of payment into your Union? A. No, sir, I have not.

Q. What does it cost you a day to work on a Union job, you figure? A. I believe my assessments are three and three-quarters per cent.

Q. In dollars and cents, what does that amount to? A. Approximately a dollar seventy-five a day.

Q. What else does it cost you? A. In what respect, sir?

Q. Well, how much money does it cost you to work on this job, in addition to the dollar seventy-five a day?

[1,734] A. It doesn't cost me actually to work on the job; just my assessments.

Q. What about the fifty cents a day that you are paying? A. I give that freely, sir.

Q. Well, you give your assessment freely, don't you? A. Yes, sir, but that is mandatory.

Q. Sir, do you remember when the rate went from a dollar down to fifty cents a day? A. Do I remember?

Q. Yes. A. Yes, sir.

Q. Did you participate in that decision to reduce those rates from a dollar to fifty cents? A. I believe I was there; yes, sir.

Q. Did you vote in favor of the decrease? A. Yes, sir.

Q. Did you vote for that increase? A. Yes, sir.

Q. Why did you vote for a decrease then? A. Sir?

Q. Why did you vote for decrease from one dollar fifty [1,735] cents? A. Yes.

Q. Yes? A. Well, the rank and file went along with it, so we voted on it.

Q. You say the rank and file. Do you consider yourself the rank and file? A. I'm a member; yes, sir.

Q. Have you ever paid more than what the rank and file, or what the rate was, into this Fund? A. No, sir.

Q. Ever paid any less? A. No, sir.

Q. You are current on everything that is owing, including your assessments, Voluntary Fund payments, and your dues? A. Yes, sir.

Q. Now, sir, you say that you participated in some of these discussions. What was your purpose for paying into this Fund? A. My purpose?

Q. Yes. A. The Political Fund, you are talking about!

Q. Yes. A. To help elect legislators that is for labor. [1,736] Q. Yes, sir. Sir, were you present when that Fund was cut off and the Callanan Gift Fund was instituted?

Mr. Daly: I object to that question, Your Honor, ask it be stricken and the jury instructed to disregard it and a mistrial be declared. It doesn't tend to prove or disprove any of the issues in this case.

The Court: The request for a mistrial will be denied, and the objection will be overruled.

Mr. Daly: May the objection go to all questions on this line, Your Honor?

The Court: Yes.

Q. (By Mr. Riddle) Sir, did you participate in that decision— A. I was at the meeting; yes, sir.

Q. —to cut off the Political Fund and put into life the Callanan Fund? A. I was.

Q. Sir, did you decide at that time that you didn't need any more money in the Callanan Fund for a while? A. I would say so; yes, I decided that, yes.

Q. In your own mind, you decided it? A. Yes, sir.

Q. Did you know how much money was in the Fund then? A. Not approximately; no, sir, I wouldn't.

[1,737] Q. Did you have any idea? A. Truthfully, no, sir, I didn't.

Q. You don't know whether it had a nickel or five hundred thousand dollars? A. Well, I knew we had money in there; yes, sir.

Q. But you didn't know how much? A. No, sir, not total.

Q. You don't have the slightest idea? A. Well, I could take a guess, sir.

Q. What would be your guess? A. Maybe a hundred some odd thousand. I don't know. It is just a guess, actually.

Q. Well, did anybody tell you how much was in the Fund then? A. I don't recall, sir.

Q. Did you collect the Callanan money? A. No, sir, I did not.

Q. But you paid regularly into it? A. Yes, sir.

Q. Was that for political purposes? A. Sir?

Q. Was that for political purposes that you paid into that Fund? You can answer that yes or no. A. Would you repeat that?

[1,738] Q. Yes. The money that you paid into the Callanan Gift Fund, was that for political purposes? You can answer it yes or no. A. No, sir.

Mr. Riddle: I have nothing further.

Mr. Daly: No redirect.

The Court: You may go out that door.

The Witness: Thank you.

(Witness excused.)

JOHN A. KELLY,

being first duly sworn, testified in behalf of the defendants as follows:

Direct Examination.

By Mr. Randall:

Q. Mr. Kelly, would you state your full name, please, sir? A. My name is John A. Kelly.

Q. And where do you live, Mr. Kelly? A. In Wentzville, Missouri.

Q. Are you a pipefitter? A. Yes, sir.

Q. Are you a member of Local 562? A. Yes, sir.

Q. And how long have you been a member? A. Twenty-one years.

[1,739] Q. Are you familiar with the Voluntary Political Fund? A. Yes, sir.

The Court: Mr. Kelly, would you sit back in the chair so your nose is a little farther away from the microphone? That is what causes that roar, when you breathe.

Q. (By Mr. Randall) Have you always contributed to the Voluntary Fund? A. Yes, sir.

Q. Are you contributing to it now? A. Yes, sir.

Q. And where do you work at the present time? A. At Labadie Powerhouse, in Labadie, Missouri.

Q. Now, have your contributions to that Fund been voluntary? A. Definitely.

Q. Has anyone ever told you you had to contribute in order to work? A. No, sir.

Q. Or to remain a member of the Local? A. No, sir.

Mr. Randall: You may inquire.

Cross-Examination.

By Mr. Riddle:

Q. Are you a foreman? [1,740] A. Yes, sir.

Q. How long have you been a foreman? A. On this job? About eight weeks.

Q. Before this, were you a foreman? A. At various intervals, yes, sir.

Q. Who recommended you to be a foreman on this job? A. You gain your foremanship through the integrity of your work and constantly—I think I'm a pretty good pipe-fitter, and I earned the job of foreman.

Q. Sir, did the Union hall recommend you for a foreman? A. No, sir, not to my knowledge.

Q. You don't think they did? A. (Indicating no.)

Q. Sir, are you collecting money now? A. Yes.

Q. From the members? A. From the men I am associated with in my crew of men; yes, sir.

Q. Any on your crew from out of town? A. No, sir.

Q. All of them local members? A. Yes, sir.

Q. All of them paying you 50 cents a day? A. All of them have given me 50 cents a day; yes, sir.

[1,741] Q. Now, have you been a foreman on some jobs in the past? A. Yes, sir.

Q. Where out-of-towners worked? A. Yes, sir.

Q. What about in 1966? A. Yes, sir.

Q. What about in the months of June, July and August of '66, were you a foreman then? A. To my knowledge, no, sir.

Q. What job are you working on now? A. What job was I working on?

Q. Yes. A. I was working at that time—let's see. July of '66. I have to think back.

Q. Well, I will refresh your recollection. That is when the Callanan Gift Fund was going on. Do you remember that?

Mr. Daly: We object to this, Your Honor, for the same reasons stated with the previous witness. We object to the entire line of questioning.

The Court: All right. It will be overruled.

Q. (By Mr. Riddle) Do you remember the period of the Callanan Gift Fund? A. Yes, sir.

Q. Where were you working then? [1,742] A. Well, I was either working at Palmyra, Missouri, or else I was working at the hotel on Spring and Lindell. Those were two different contractors. One I was a foreman, and one I wasn't.

Q. Well, on the job up at the one that was upstate, did you say at Palmyra? A. Palmyra, yes.

Q. Were there some other out-of-towners working on that job? A. Yes, sir.

Q. Did they pay into the Callanan Fund? A. To the best of my knowledge, they did.

Q. Did they pay four times as much as you did into the Callanan Fund per day, 8-hour day? A. I couldn't tell you that, sir.

Q. Do you know what their rate of pay was? Two dollars a day? A. Their rate of pay was two dollars for every day that they worked; yes.

Q. And your rate of pay at that time was fifty cents a day, wasn't it? A. I suppose so. Yes. I don't know if it was a dollar or fifty cents a day at that time.

Q. Do you think that those out-of-towners felt four [1,743] times as kindly and generous toward Mr. Callanan as you do?

Mr. London: I object to the form of the question, Your Honor.

The Court: I think it is argumentative, Mr. Riddle.

Q. (By Mr. Riddle) Sir, let me ask you this question: Did you ever hear any of the out-of-towners, or did any of them ever tell you why they were contributing \$2.00 a day rather than 50 cents a day, as you were, to Mr. Callanan?

Mr. Daly: Your Honor, I object. This would be hearsay, what anyone might have told him.

Mr. Riddle: This is cross-examination, Your Honor.

The Court: Well, it is cross-examination. That doesn't change the hearsay rule, but I think that he can testify to the fact whether or not there was any discontent or displeasure.

The Witness: To my knowledge, all men that I was associated with, of whom I collected any money from towards the Fund, towards this Gift Fund, did so on their own recourse. They did it because they wanted to, fairly and squarely.

Q. None of them refused to pay it? A. No, sir.

Q. You collected every week from every one of them?
A. For every working day that they worked.

Mr. Riddle: That's all.

[1,744] The Court: Call your next witness.

(Witness excused.)

CHARLES W. CAMPBELL,

being first duly sworn, testified in behalf of the defendants as follows:

Direct Examination.

By Mr. London:

Q. State your name, sir. A. Charles W. Campbell.

Q. Where do you live, Mr. Campbell? A. Route 3, Jackson, Missouri.

Q. Mr. Campbell, are you a member of Pipefitters Local 562? A. I am.

Q. Do you contribute to the Voluntary Fund, sir? A. I do.

Q. Are your contributions to that Fund voluntary? A. They are.

Q. Did anybody ever tell you you had to give in order to work? A. No.

Mr. London: You can inquire.

[1,745] **Cross-Examination.**

By Mr. Riddle:

Q. I didn't get you. Are you a member of 562? A. I am.

Q. Are you a foreman? A. No, sir.

Q. Ever been a foreman? A. Yes.

Q. When? A. 1967, part of 1968.

Q. Within the last year, you have been a foreman? A. Yes.

Q. What job were you a foreman on? A. Bixby, Missouri job.

Q. Did you collect monies? A. I did.

Q. From the out-of-towners, as well as the regular members? A. Yes.

Q. You collected at the rate, I guess, of \$2.00 a day—

Mr. London: I will object as being out of the scope of the direct examination.

Mr. Riddle: —from the out-of-towners?

The Court: No, I think it is not. He may answer.

[1,746] The Witness: Would you repeat the question?

Q. (By Mr. Riddle) Did you collect from the out-of-towners at the rate of \$2.00 a day? A. I did.

Q. Any of them refuse to pay you? A. No, sir.

Q. Did you distribute cards to the new ones that came on the job? A. No, sir.

Q. These Voluntary cards? A. No, sir.

Q. Who did that for you? A. I assume the steward did.

Q. The steward distributed the cards when the new men came on? A. I am sure he did.

Q. Well, you have seen him do it, I guess? A. Not to my knowledge, I didn't.

Q. But you know they got the cards? A. Not for sure; no.

Q. Have you ever been a steward? A. No.

Q. You have been a member of 562 how long? A. About two years.

[1,747] Q. Were you a member of another pipefitters local before that? A. I was.

Q. Which one? A. Local 318, Cape Girardeau, Missouri.

Q. Cape Girardeau? A. Yes.

Q. You changed your membership when? A. 1966.

Q. Do you remember what month? A. I don't remember.

Q. Sir, when you were a member of 318 in the early part of 1966, what did you voluntarily pay into this Fund per day? A. I don't remember for sure, because it was—I voluntarily pay different amounts.

Q. You mean you paid some amount different than \$2.00 a day when you were working out of the Cape local? A. I did earlier than that, I am sure.

Q. Was this an exception? A. Not that I know of.

Q. You mean you are telling this Court and jury that there were times you worked on a St. Louis job when you were a member of the Cape local that you paid less than \$2.00 a day for an 8-hour work day? [1,748] A. Yes.

Q. Can you tell us when, and what job you were on then? A. I don't remember the exact job or the exact dates, but I do remember I paid less than \$2.00 a day.

Q. Occasionally? A. I just don't remember when that was.

Q. Well, the rate at that time was \$2.00 a day for out-of-towners, wasn't it? A. I don't know.

Q. You don't know that? A. No, sir.

Q. Well, you know what it is now, don't you? A. For out-of-town members?

Q. Yes. A. I don't know.

Q. Well, sir, do you know this, that you began to pay a lesser amount into this Voluntary Fund the very day that you became a regular member of 562? Do you know that? A. Well, I voluntarily contributed, I assume, the same as the other members of 562.

Q. Yes. My question, sir, was do you know that you voluntarily paid a lesser amount the very day, or for that very pay period, first pay period, just as soon as you changed your membership from 318 over to 562, into the Voluntary Fund? [1,749] A. Yes.

Q. Why did you pay less right after you changed your membership? A. Well, the other members of the local were paying, volunteering a lesser amount.

Q. In other words, you were only expected to pay what the other members were paying? Isn't that a fair statement of it, sir? A. I wasn't expected to pay any certain amount, that I know of.

Q. Have you ever refused to pay anything? A. No, sir.

Mr. Riddle: I have nothing further to ask this witness.

Redirect Examination.

By Mr. Randall:

Q. Mr. Campbell, how long were you a member of 318?

A. From 1951 until 1966.

Q. And, sir, did you work under the jurisdiction, from time to time, of Local 562 during all that period of time?

A. No, sir, not all of that time.

Q. When did you first work under the jurisdiction of 562? A. 1951, '52.

Q. And do you recall how much you were paying to the [1,750] Voluntary Fund at that time? A. No, sir, I don't remember.

Q. Do you recall whether or not you paid assessments to Local 562 at that time? A. No, sir, I don't remember back that far.

Q. How long did it take you after you attempted to obtain membership in 562 before you finally were admitted to 562? A. Oh, I don't think it was any long, drawn-out period or anything like that.

Mr. Randall: I see. I think that's all.

The Court: Any recross?

Mr. Riddle: Just one second, Your Honor.

Recross-Examination.

By Mr. Riddle:

Q. Sir, you said long, drawn-out period. What do you mean by that? Was it a year, or six months? A. No, it wasn't anything like that.

Q. Three months? A. I'd say less than that.

Q. Less than three months? A. Yes.

Q. Sir, while you were working down at—while you were a member of the Cape local, did you go around over the [1,751] country and work at other locals? A. I have, at various times; yes.

Q. Can you give us a local that you worked for, other than the St. Louis, while you were a member down at Cape? A. Yes. I worked the Rockford, Illinois, local union.

Q. All right. Rockford, Illinois? A. I don't remember the local union number.

Q. Yes. Now, when you went to Rockford, Illinois, to work, did you take a travel card with you? A. I did.

Q. What did it cost you per month to work for the Rockford, Illinois, local? A. Oh, travel card dues were \$8.00 a month.

Q. And you paid into the Rockford local? A. I did.

Q. Is that all you paid? A. That's all I paid to them; yes, sir.

Q. On St. Louis local jobs, you never used a travel card? A. No, sir.

Q. You paid them the \$2.00 a day? A. I voluntarily paid \$2.00 a day; yes.

Q. And didn't pay them any travel money? A. No, sir.

Q. Sir, which would you prefer to do, pay the \$40.00 a [1,752] month, or eight dollars travel card fees?

Mr. London: I object to that as being irrelevant and immaterial, Your Honor, and calling for a conclusion on the part of the witness.

The Court: He may answer.

The Witness: I would prefer to pay the \$40.00 a month.

Q. Rather than \$8.00 a month? A. I certainly would; yes.

Q. You mean to tell this jury that you'd rather have \$8.00 in your hand than \$40.00?

Mr. Daly: Your Honor, I will object to that. That is not what the witness said.

The Court: Well, I think your question is argumentative. I will sustain it as to the form of that question.

Mr. Riddle: That's all.

The Court: Any redirect?

Mr. Randall: Yes, I have one question.

Redirect Examination.

By Mr. Randall:

Q. Were you ever offered the opportunity to pay the travel card dues by Local 562, sir? A. No, sir.

Mr. Randall: That's all.

Mr. Riddle: Nothing further, Your Honor.

[1,752A] The Court: All right. You may step down. Go out that door. Call your next witness.

(Witness excused.)

[1,753]

JAMES E. CRAFT,

being first duly sworn, testified in behalf of the defendants as follows:

Direct Examination.

By Mr. Randall:

Q. Mr. Craft, would you state your full name, please, sir? A. James Edward Craft.

Q. And what is your address? Where do you live? A. Jackson, Missouri. Route 2.

Q. Are you a member of Pipefitters Local 562? A. I am.

Q. How long have you been a member? A. Roughly about three years.

Q. And were you, at one time, a member of Pipefitters Local 318? A. Yes.

Q. How long were you a member of that, sir? A. About three years.

Q. Now, are you familiar with the Pipefitters Local 562's Voluntary Political Fund? A. I think so.

Q. Have you contributed to it? A. I have.

Q. Were your contributions voluntary? [1,754] A. Yes.

Q. Did anyone ever tell you you had to contribute to it? A. No.

Q. Sir, were you ever offered the opportunity by Pipefitters Local 562 to pay a travel card dues? A. No, I didn't have no reason to.

Mr. Randall: You may inquire.

Cross-Examination.

By Mr. Riddle:

Q. Do you mean at a time when you were a member of 318 and working on a 562 job, this is back when you were a member of the Cape Girardeau local? A. Yes.

Q. And working on a 562 job, you didn't have any reason to ask for a travel card? A. Why should I? I was working.

Q. Well, do you know what a travel card is? A. Well, I think so; yes.

Q. You have used them, haven't you? A. Once.

Q. When did you use it? A. Decatur, Illinois, I believe.

Q. All right. And when you left to go up to Decatur from your local down at Cape, you made an application from your [1,755] local office there for a travel card? A. Yes.

Q. And when you went up to Decatur, you deposited your travel card with your business agent up there? A. Right.

Q. And for that travel card you paid \$8.00 a month? A. I don't know whether that is the correct amount or not, but I know it was some money. I don't know what the amount was.

Q. Well, does \$8.00 sound about right? A. Well, probably.

Q. And for that \$8.00 you were permitted to work on a Decatur local job? A. Right.

Q. All right, sir. During that same period of time when you worked on a 562 job, you say you didn't have a travel card? A. No.

Q. So you didn't pay them \$8.00 a month for travel dues? A. No.

Q. Instead, how much did you pay a month into the Voluntary Fund? A. I don't know how much it was. I never did figure it up.

Q. You didn't figure it up at \$10.00 a week? \$2.00 a day? [1,756] A. Well, let's see. It run about, I guess about \$2.00 a day.

Q. Or \$10.00 a week? A. Yes.

Q. Or \$40.00 a month? A. Yes; sounds about right.

Q. It's, about right, isn't it? Except when you were paying or working overtime, then you paid more? A. I don't recall whether I paid any more or not for working overtime.

Q. Now, then you say that you didn't have need for a travel card into 562? A. No. Why should I?

Q. Sir, you paid \$8.00 to work on the Decatur local job? A. I had to pay that.

Q. And you have just testified that you paid \$40.00 a month to work on a 562 job? A. That was voluntary, though.

Q. Yes, sir. Why didn't you take them a travel card for \$8.00? A. I didn't feel like I wanted to.

Q. You mean you are telling the jury that you didn't want to get off with \$8.00? That you preferred to pay them \$40.00? [1,757] A. That's right.

Q. What do you work for? What is the purpose of you going out and working on a job? A. Earn myself a living.

Q. To earn money, isn't it? A. Right.

Q. Do you have a wife and family to support? A. I have.

Q. And you are telling us that you'd rather pay \$40.00 to this local than \$10.00 to another local on a travel card? A. Repeat that question.

Q. You are telling us that you'd rather pay the \$40.00 a month than an eight-dollar travel card? A. \$40.00 to what?

Q. Into the Voluntary Fund? A. Yeah. Any time.

Q. Just tell us why. A. Because I figure it helps me and the community around here.

Q. Where did you get that suggestion? Who told you— A. Nobody.

Q. —to say the community around here? A. Well, in the immediate area.

Q. You live down at Jackson? [1,758] A. I do. I just recently moved down there though.

Q. Where did you live before then? A. St. Ann.

Q. St. Ann? A. Yes.

Q. You pay \$40.00, you say, a month to help the community around here? A. Um hnm?

Q. Do you pay any other money for community projects and affairs, besides into this Fund? A. A little charity.

Q. A little charity? A. Um hnm.

Q. How much a month do you pay in to charity? A. I don't know.

Q. \$40.00? A. Probably not quite that much, maybe.

Q. Sir, you became a member of 562 three years ago? That is roughly? I don't know what time it was, exact date, but that's in the neighborhood of it; yes.

Q. The very week that you became a member of 562, do you recall that you paid voluntarily a lesser amount? A. No.

Q. You don't recall that? [1,759] A. No. There ain't no set amount you got to pay anyway.

Q. There's no set amount you got to pay? A. No.

Q. Have you ever paid less than the going rate? A. Yes.

Q. How much less? A. You pay \$2.00, \$3.00, whatever you feel like paying.

Q. You mean for an 8-hour day you have, on occasion, paid \$3.00? A. Yes. No, not for an 8-hour day.

Q. Well, for an 8-hour day, have you ever paid more than \$2.00? A. No.

Q. Even when you were working on a Cape Girardeau job? A. No.

Q. Have you ever paid less than \$2.00 when you were working on a Cape Girardeau job? A. No.

Q. So you couldn't pay what you feel like paying; you pay what the going rate is, don't you? A. No.

Mr. Riddle: That is all.

[1,760]

Redirect Examination.

By Mr. Randall:

Q. Mr. Craft, how long did you live in the St. Louis area before you were admitted into membership of Local 562? A. How long did I live in the St. Louis area?

Q. Yes.

The Court: The question was how long did you live here before you were admitted into membership of 562?

The Witness: I've lived in the St. Louis area since '57.

Q. (By Mr. Randall) And you were only admitted into membership two or three years ago? A. Yes.

Q. Now, do you recall whether or not, during that entire period of time, up until you were admitted, whether or not 562 admitted any new members into membership? A. As far as I know, they didn't.

Q. And that was the first occasion; is that correct, sir? A. As far as I know, it is.

Q. And, at that time, how many did they admit? A. Roughly, about twenty-nine in that group that I went in in.

Q. Sir, are you familiar with the provisions of the By-Laws and Constitution of the Local? Of the United Association? [1,761] A. Not too familiar with them; no.

Q. You are not familiar then with the travel card provision for dues? A. Not really; no.

Mr. Randall: That's all.

The Court: Any recross-examination?

Mr. Riddle: Just one question.

Recross-Examination.

By Mr. Riddle:

Q. Sir, were you a member of 562 during the period of the Callanan Gift Fund?

Mr. Daly: I object to that question, Your Honor, for the reasons previously stated, and object to any further questions along this line.

The Court: Well, —

Mr. Daly: It is beyond the scope of the direct, or redirect.

The Court: You anticipate my ruling. This is not within the scope of the redirect.

Mr. Riddle: That is all right.

The Court: All right. Is that all? That is all for you.

(Witness excused)

The Court: Call your next witness. Well, we will [1,762] recess, but we are going to start tomorrow morning at 8:30. Bear in mind the admonition I have given you heretofore. Don't discuss this with anyone, or permit anyone to discuss it with you. Don't read the newspapers. All right. 8:30 tomorrow morning.

(Thereupon at 5:30 P. M., on Monday, September 16, 1968, court adjourned until 8:30 A. M., Tuesday morning.)

Tuesday, September 17, 1968.

Morning Session.

The Court: Call your next witness.

Mr. London: May we approach the bench, Your Honor?

(Thereupon the following colloquy ensued among the Court and counsel, at the bench, out of the hearing of the jury:)

Mr. London: If the Court please, in view of the conversation that we had with the Court and counsel for the Government earlier this morning, we, counsel for the defendants, have discussed the matter, discussed wherein the Court stated to us that in view of the fact that we had numerous additional witnesses to call of the same type that are members of the Union that have been called over the last two days, and that in view of the fact that these witnesses were numerous, that the Court, although permitting us to call these witnesses, would require that night sessions be held and that Saturday sessions [1,763] be held and that the Court would attempt to make arrangements for additional reporting service, we feel we would like to call these witnesses who would testify, as has some of the other witnesses who have preceded them, that there was no compulsion for them to contribute to this Fund, that they had attended meetings wherein the rates of contribution were discussed and voted upon by the members, who would testify that all of the contributions to this Fund were voluntary, and that they knew that this Fund meetings and Union meetings, as well as the Fund meeting itself, were separate and apart, although as I indicated we would like to have all of these witnesses, we feel in view of the statement by the Court that it would be physically impossible for us as attorneys to adequately represent these defendants under the circumstances as outlined, and that the defendants would

thereby under the conditions set forth be deprived of their right to effective assistance of counsel as guaranteed by the Constitution.

We further feel that this procedure would deprive the defendants of a fair trial and due process by placing an undue hardship on the jury and burden the jury with the hours of work as has been indicated. I believe yesterday we examined some thirty-plus witnesses. There are hundreds of more witnesses from this Union, and who have worked under the jurisdiction of this Union, who could be called, but under the circumstances as I have indicated that were explained to us, we think we at this [1,764] time will call no more of these witnesses.

The Court: I take it, Mr. London, that your witnesses are all ready to testify that they are employees or members of 562, and that they participated in the Voluntary Fund and that their contributions have been voluntary, is that right?

Mr. London: And an additional thing, Your Honor, some of them are members of 562, some are not.

The Court: All right, that they are and have worked under the jurisdiction of 562?

Mr. London: And also, as you indicated, their contributions were voluntary and also that the Fund is separate and apart from the Union itself and that they have attended these meetings where these matters were voted upon.

The Court: Well, of course, a great many of these witnesses did not testify about being separate and apart.

Mr. London: Not every witness, of course, Your Honor, will testify as to exactly the same facts.

The Court: The Court has no intention of limiting the number of witnesses, although the Court feels by reason

of the authority of *Samuels v. United States*, which is reported in 232 Fed. 536, that the Court has the authority to limit it under the circumstances where the witness's testimony is merely going to be cumulative.

The Court has indicated he has no intention of stopping you. I merely want to put on as many witnesses as [1,765] can be put on during the course of the day. These jurors are being kept from their businesses, and to the extent that we can, we are going to run as long as we can during the day.

Now, the Court is not asking you not to put on, and has told you before he had no intention of limiting the numbers of witnesses you put on. So whatever you do, you're doing on your own. The Court is not compelling you to do anything.

All right, call your next witness.

Mr. London: One moment.

Mr. Randall: Under the circumstances we are not going to call any more of that class of witness.

The Court: It's up to you to call them or not. We are here to hear them, and the jury is here, and the reporter is here, and it is 10:00 o'clock in the morning, and we are ready to go, and let you put on as many as you want.

Mr. London: Off the record for a moment.

(Thereupon, there was a colloquy between Court and counsel off the record.

Thereupon the following proceedings were had in the presence and hearing of the jury:)

Mr. Randall: Mr. Edward Steska.

The Court: He's already been sworn.

EDWARD W. STESKA,

recalled, having previously been duly sworn, testified in behalf of the defendants as follows:

[1,766]

Direct Examination.

By Mr. Randall:

Q. Mr. Steska, are you the same Edward Steska who has previously testified twice in behalf of the Government?

A. Yes, sir, I am.

Mr. Riddle: I object to that, Your Honor, when he says "on behalf of the Government." He was called as a Government witness but it was made clear for the record that he was the president of the company. We were entitled to consider him as an adverse witness.

The Court: All right.

Q. (By Mr. Randall) Are you the president of Local 562, sir? A. Yes, sir, I am.

Q. You are a member of Local 562? A. I am.

Q. Mr. Steska, how long have you been a member of Local 562? A. Since 1941.

Q. How long have you been president of Local 562? A. Since 1961.

Q. Are you one of the trustees of the Welfare Trust? A. Yes, sir, I am.

Q. Are you one of the trustees of the Pension Trust? [1,767] A. Yes, sir.

Q. And is that a joint management and labor trust, those two trusts? A. Yes, sir, it is.

Q. And how long, sir, have you been trustee of the Welfare Trust? A. Approximately three years.

Q. And how long have you been trustee of the Pension Trust? A. Same amount of years, about three years.

Q. Now, do you hold also an appointive office in Local 562? A. Yes, sir, I do.

Q. What is that, sir? A. I'm a business representative.

Q. Now, are you a member of the Voluntary Fund? A. Yes, sir, I am.

Q. And how long have you been a member of the Voluntary Fund, sir? A. Since its inception, around 1949.

Q. Now, sir, in your various capacities that you have defined are you familiar with the affairs and functions and activities of Local 562? A. Yes, sir.

[1,768] Q. And are you familiar with the affairs, functions and activities of the Welfare Trust? A. Yes, sir.

Q. And of the Pension Trust? A. Yes, sir.

Q. And of the Voluntary Fund? A. Yes, sir.

Q. Now, Mr. Steska, have you brought with you a copy of your contract, Local 562's contract? A. Yes, sir.

Q. Could I have the current one, sir? A. Yes, sir.

(Thereupon Defendant Union Local 562's Exhibit DD was marked by the reporter for the purpose of identification.)

Q. Now, Mr. Steska, I hand you what has been marked Local Union 562 Exhibit DD, sir, and I will ask you if that is a copy of your current contract? A. Yes, sir, it is.

Q. And what was the effective date of that contract? A. Effective June 15, 1968.

Q. Now, do you have your contract immediately prior to that one with you? A. Yes, sir.

Q. And the one prior to that too?

[1,769] We'll mark them both.

(Thereupon Defendant Union Local 562's Exhibit EE and FF were marked by the reporter for the purpose of identification.)

Q. I will now hand you, Mr. Steska, what has been marked Local Union 562 Exhibit EE, sir, and I will ask you if that is your contract immediately prior to the one now effective? A. Yes, sir, it is.

Q. What is the date, effective date of that contract?

A. Effective June 15, 1966.

Q. I hand you Local Union 562 Exhibit FF and ask you what that is, sir? A. This is a copy of the contract that was in effect June 15, 1963.

Q. Mr. Steska, do you have with you a copy of the By-Laws and Constitution of Local 562? A. Yes, sir.

Q. Could I have that, please, sir?

The Court: Aren't there some in evidence already?

Mr. Randall: Your Honor, I'm not sure it's the one effective. They brought some in from the local union and I would just as soon mark one of them.

(Thereupon Defendant Union Local 562's Exhibit GG was marked by the reporter for the purpose of identification.)

[1,770] Q. Now, Mr. Steska, I hand you what has been marked Local Union 562 Exhibit GG and I will ask you if that is a copy of the By-Laws and Constitution of Local Pipefitters Union 562? A. Yes, sir, it is.

Q. What is the effective date of that? A. This was adopted by a vote of the membership in a meeting of November 9th, 1960.

Q. 1960. Now, who wrote that By-Laws and Constitution? A. Our attorney, Harry Craig.

Q. Now, do you have a copy, Mr. Steska, of the By-Laws and Constitution of the United Association? A. Yes, I have.

(Thereupon Defendant Union Local 562's Exhibit HH was marked by the reporter for the purpose of identification.)

Q. Now, Mr. Steska, I hand you Local Union 562 Exhibit HH and ask you if that is a copy of the By-Laws and Constitution of the United Association? A. Yes, sir, it is.

Q. What is the effective date of it? A. This was revised and amended at Kansas City, Missouri, August 8-12, 1966. That was at our convention.

Q. Now, sir, do your contracts contain a copy of your trust agreements? Are they set forth in your contract? [1,771] A. Yes, sir.

Q. Now, do you have a document that sets forth your jurisdiction, the jurisdiction of your local? Do you have such a document with you, a letter or something, from the United Association? A. Yes, sir, and it's also in the contract.

Q. It's in the contract? A. Yes, sir, and I also have a copy of the letter from General President Schuman.

Q. Could I have that?

I would like to get these marked before we start talking about them.

Could I have that map? A. I believe you've got the map, haven't you?

Q. Maybe I have.

(Thereupon Defendant Union Local 562's Exhibits II, JJ and KK were marked by the reporter for the purpose of identification.)

Q. Now, Mr. Steska, I hand you what has been marked Local 562 Exhibit II and I will ask you if that is the letter from the general president which explains and sets forth the jurisdiction of your local? A. Yes, sir, letter on the top is the recommendation from General Organizer Ryan to Mr. John McCartin, who is [1,772] Assistant General President, and the communication in the back is a letter addressed to the business manager of Local

562 confirming General Organizer Ryan's recommendation.

Q. All right, if you will just hold that, too, for a moment and, sir, I will hand you what has been marked Local Union 562's Exhibit JJ and will ask you, sir, what that is? A. This is a map of the State of Missouri and it indicates the various counties of which Local 562 exercises jurisdiction.

Q. That needs some explanation to fully indicate that, the map itself is not sufficient to indicate all that, is it, sir? A. No, sir.

Q. All right, and then I will show you Local Union's Exhibit KK and will ask you what this is in relation to that map? A. Well, in relation to the map here that is in the outline of the so-called boundary lines of Local 562 jurisdiction.

Q. But it does not contain the colors? A. No, sir, it does not.

Q. All right, now, sir, if I might—Your Honor, at this time I offer Exhibits DD through KK in evidence.

Mr. Riddle: Your Honor, I haven't seen that contract. If he will withhold that until we have a chance to look at it—

The Court: You mean the letter?

[1,773] Mr. Randall: Jurisdictional letter.

Mr. Riddle: Yes. We will have no objection to the rest of them. We do want to take a look at that before—

The Court: All right, I will receive the rest of those.

(Thereupon Defendant Union Local 562's Exhibits DD, EE, FF, GG, HH, JJ and KK were received in evidence.)

The Court: Mr. Steska, isn't the last part of that sheaf of papers the only significant portion in relation to the questions that were propounded to you?

The Witness: No, Your Honor. You would have to take the entire letter because it just goes right on through.

Mr. Randall: Your Honor, would you like an explanation? You want me to ask—

The Court: All right.

Q. (By Mr. Randall) Mr. Steska, the first part, is that the report and then the last letter approves the report, am I correct? A. Yes, sir.

Q. Now, Mr. Steska, let's start first then with the jurisdiction of Local 562 and if you would look at the map that we have out here, where does Local 562 have jurisdiction on this, if we can look at this map? A. Everything within the boundary lines marked in red. [1,774] There's sixty-one and a half counties there.

Q. You're talking about this boundary line here (indicating)? A. Yes, sir. We exercise jurisdiction over better than half of the State of Missouri.

Q. Well, do you have complete jurisdiction over all of those counties, all jobs in those counties? A. All major jobs.

Q. In other words, some locals— A. That's right.

Q. —have jurisdiction over small jobs? A. That's correct.

Q. Now, we notice here, and this is just one outline, the whole area that you have jurisdiction over all major jobs, am I correct? A. That's right, and jobs coming under the prevailing wage rate of the State of Missouri are also covered under our jurisdiction.

Q. Now, is there some areas where you have jurisdiction even over the minor jobs? A. Oh, yes, sir.

Q. Well, that is not indicated on this chart, is it?

A. No, none of them are indicated. We are just indicating all counties in which local Union 562 has jurisdiction.

[1,775] Q. Now, does this other chart, does it indicate the areas where other locals have partial jurisdiction? A. Yes, sir, it does.

Q. I wonder if we could turn that around where everybody could see it?

Q. Now, would you indicate to the jury, turn it around so the jury and also counsel over here can see it. What color area do you have jurisdiction over all jobs? A. The areas marked in red, all piping in the area marked in red, we exercise jurisdiction over all major and minor jobs.

Q. All right, now, looking at this green or this dark green area, what jurisdiction does Local 562 have over that area? A. All major jobs, powerhouses, industrial plants, processing plants, and work coming under the prevailing wage rate of the State of Missouri.

Q. All right, now, what local has jurisdiction over the remaining jobs? A. Local 318.

Q. Of Cape Girardeau? A. That's right.

Q. Now, looking up at the orange area, what jurisdiction does Local 562 have over that, sir? A. There again we have all major jobs, powerhouses, [1,776] processing plants, industrial plants and work coming under the prevailing wage law in the State of Missouri.

Q. And what local has jurisdiction over the remaining jobs? A. Local 581 from Hannibal.

Q. Now, looking at the blue area in the middle part of the State, what jurisdiction does 562 have over that? A. We have no jurisdiction over the blue area.

Q. How about the white area? A. The white area we do. We have jurisdiction over the white area.

Q. All of it? A. No, sir, just on major jobs, again like powerhouses, industrial plants, processing plants and

work coming under prevailing wage law of the State of Missouri.

Q. What local has jurisdiction over the remaining? A. Local 279 at Jefferson City.

Q. I have now covered all the area of 562, have I not? A. Yes, sir, you have.

Q. In other words, there are three locals who have jurisdiction over the same area that you have on major jobs only, am I correct? A. That's correct.

Q. Cape Girardeau, Hannibal and Jefferson City? [1,777] A. That's right.

The Court: The white area, who has jurisdiction over that?

The Witness: We exercise jurisdiction over those major jobs in the white area.

The Court: What about the blue area right above it?

The Witness: The blue area we don't. That is Local 317 out of Columbia, Missouri. They have about three and a half counties, I think.

The Court: You have no jurisdiction at all over that?

The Witness: No, sir, we have no jurisdiction in that area.

Q. (By Mr. Randall) Now, Mr. Steska, looking at your contract, your prevailing contract, or from memory if you don't need it, would you tell the Court and jury the wage scale, the prevailing wage scale in your local, describing the zone situations and all of that? A. Well, we have three wage scales in effect in Local 562.

If you don't mind, I would like to refer for accuracy to the contract.

We start off at \$5.60 in one zone for journeymen.

Q. Where is zone 1? A. Zone 1 is the City of St. Louis and St. Louis County.

Q. Now, sticking with journeymen, take zone 2, will you? [1,778] A. Yes, sir. Zone 2 is the jobsite within twenty miles beyond the boundary line of St. Louis, Missouri.

Q. The next border around St. Louis is zone 2? A. Within a twenty-mile radius, yes, sir, St. Louis County.

Q. St. Louis County.

The Court: Wait a minute. Is twenty miles from the boundary line of St. Louis County or boundary of St. Louis?

The Witness: Boundary of St. Louis County, Your Honor.

The Court: OK.

Q. (By Mr. Randall) And what is the prevailing wage rate for journeymen in that zone? A. \$5.98 per hour.

Q. In other words, it is higher as you get away from St. Louis? A. Thirty-eight cents per hour higher.

Q. Now, you have a third zone. A. Yes, sir, we have. Does that cover the rest of all of your area of jurisdiction? A. Yes, sir, zone 3. Jobsite, more than twenty miles beyond the boundary line of St. Louis County, Missouri.

Q. And what is the wage rate of journeymen out there? A. \$6.16 per hour.

[1,779] Q. Now, sir, I will ask you what has been—First of all I will ask you this: Do you refer from your Union hall people to contractors for employment? A. Yes, sir, we do.

Q. And what has been your referral policy in that respect? Who do you start with? A. Well, we start with the contractor calling when he is in need—

Q. No, I'm talking about who do you start referring first? A. We start referring Local 562 journeymen first.

Q. All right, and then second? A. Second, the people who would be in a particular area, if it would be a job, it would be in the northern area, we would take Local 581 first, southern area we would take Local 318 first or vice versa. We would take those locals and Local 279 also.

Q. In the central area? A. That's right.

Q. So that is it a fact that the people who work under your jurisdiction down in southeast Missouri from 318 receive a higher wage than your people who work here in the St. Louis area? A. Yes, sir, they would be getting 56 cents an hour [1,780] more than the people in St. Louis.

Q. Now, while we are on that subject, sir, do a lot of people from these three locals work under the jurisdiction of 562? A. Yes, sir, they do.

Q. And do they do that pretty regularly? A. Yes, sir.

Q. During what period? Have you had periods where there was short work and it was a little more difficult? A. Oh, yes, sir, we had a period in 1960 and '61 where we had over 400 of our own people out of work, Local 562 members.

Q. I see. A. For almost a year, a little over a year, I believe it was.

Q. Now, sir, we have taken the journeyman's wage in those three zones. What about the foreman? A. The foreman gets 50 cents per hour more than a journeyman. I could give you the wage scale.

Q. It's the same thing for each zone except 50 cents up? A. That's right.

Q. Is there another classification? A. Area foreman gets 75 cents per hour more than the journeyman, and another classification is the general foreman and he receives one dollar per hour more than the journeyman.

[1,781] Q. Now, sir, what is your provision in your contract with respect to overtime? A. Overtime is computed at double time or double the straight time hourly rate.

Q. Now, what is paid in to your pension and welfare fund per hour? A. Two dollars seventeen and a half cents per hour.

Q. Is that double for—double for overtime? A. No, sir, that is on a straight time hourly basis.

Q. Now, sir, is that paid in for members of your local and also non-members who work under your jurisdiction?

A. That is paid in on any and all employees.

Q. Is there any distinction whatsoever made in your trust funds with respect to members of Local 562 and non-members? A. No, sir, it's all referred to as employees.

Q. Now, sir, do you know how much you have paid from September '63 to September '68 from your trust funds to non-members? A. Yes, sir. If you will let me refer to my information, it's over \$600,000.

Q. How much is it, sir? A. \$645,921.77.

Q. And do you know how many non-members were involved in that? Do you have a list of them there? [1,782]

A. Yes, sir, the total is 451 non-members, non-member employees who have been paid these benefits.

Q. Have been paid benefits? A. That's right.

Q. During that period? A. That is the period of time between September 1963 and September 1968.

Q. Now, do you have a provision in your contract in relation to wages, Mr. Steska, for show-up time? A. Yes, sir, we have.

Q. And what is that provision? A. Two hours, a man is entitled to two hours show-up time.

Q. In other words, if he shows up and they don't put him to work he gets paid two hours? A. That's correct.

Q. Now, Mr. Steska, do you have an exclusive hiring hall provision in your contract? A. No, sir, we have not.

Q. And by that would you tell us what the hiring situation is? A. We have what is termed as a non-exclusive hiring hall procedure.

Q. And by that it means what, sir? [1,783]. A. By that it means that the employer will call the Union hall, ask for employees to be referred to his job. If the Union hall is unable to fulfill his request he is permitted to obtain the employees anywhere he can get them. There is a section in here, if you would care for me to refer to it.

Q. Yes, you may. A. You want me to go into it?

Q. Yes, you may refer to it, explain it. A. This is entitled "Article 4, Manner of Employment, Section 1. The parties recognize the fact to be that the Union's knowledge and experience within the industry here involved, together with the sources of competent manpower available to it, can be of assistance to the employer in recruiting needed journeymen employees. For this reason, it is the mutual desire of the parties to establish a non-exclusive referral system whereunder the Union shall be given an opportunity to recommend journeyman job applicants as they are needed by the Employer, and thus be able to compete with other sources in the placement of journeymen employees.

"It is therefore understood and agreed that the Employer shall notify the Union whenever journeyman employees are to be hired and shall afford the Union an opportunity to recommend journeyman job applicants. The Employer further agrees to give such applicants due consideration, consistent [1,784] with the provisions of the National Labor Relations Act, as amended.

"The notification of needed journeyman employees shall specify the name of the contractor and location of the job in question, the probable duration of the job, the class or classes of employees to be hired, the number of employees required in each class, the probable length of em-

ployment of those in each class, and the experience and qualifications desired of employees.

"The Employer shall notify the Union whenever employees are hired, giving their names and addresses and the job classifications in which they will work.

"The Employer retains the right to reject any job applicant referred by the Union.

"The number of men to be employed is at the discretion of the Employer.

"The Union shall refer only persons who are available for employment.

"The Employer reserves the right of management at all times and may select, in the case of reduction or replacement of the working force, those workmen it desires to retain.

"The Union agrees to recommend the most competent available workmen to the Employer on request, provided, however, that the Employer shall have the right to determine the [1,785] competency and qualifications of its employees. The Employer shall not discriminate against any person by reason of his membership in the Union or his participation in its lawful activities. Neither the Employer, nor the Union, shall discriminate against any person by reason of his race, color or creed.

"The Employer agrees to hire only qualified journeymen who have served as apprentices and/or worked at the trade five years or more in learning and assisting in the trade of installing, repairing and service work.

"It is agreed that no apprentices shall be hired except upon referral to the Employer by the joint Apprenticeship Committee, or its authorized representatives. It is understood, however, that this exclusive means for the employment of apprentices shall be subject to the following objective standards:

"Selection of applicants for referral to jobs shall be on a non-discriminatory basis and shall not be based on, or

in any way affected by, Union membership, by-laws, rules, regulations, constitutional provisions, or any other aspect or obligation of Union membership, policies, or requirements.

"The Employer retains the right to reject any job applicant referred by the joint Apprenticeship Committee.

"The parties hereto shall post in places where [1,786] notices to employees and applicants for employment are customarily posted, all of the provisions of this Article and the provisions of the Apprenticeship standards.

"Apprentices shall be paid a progressively increasing scale of wages based on the following percentages of applicable journeyman wage rates:

"First year, 45 per cent; second year, 55 per cent; third year, 65 per cent; fourth year, 75 per cent."

Q. That pretty well covers— A. Yes, sir, we're going off into—but it was in that same article.

Q. I think that is enough.

Now, Mr. Steska, you said that the Voluntary Fund was first originated in 1949. A. Approximately, yes, sir. It was right after the 1948 presidential election.

Q. Would you tell us what the contributions to it was at that time and its origin? A. To the best of my recollection—

Mr. Riddle: Just a minute, we will object to that as being indefinite. It calls for such a vague type of answer, gives the witness a roving commission to say anything he wants to.

The Court: Well, come up, please.

[1,787] (Thereupon the following colloquy ensued among the Court and counsel at the bench, out of the hearing of the jury:)

The Court: What is the purpose of going beyond the period in the indictment?

Mr. Randall: Your Honor, they have gone beyond it. They've got these minutes in back in '62 and I have to go back there in order to explain the situation. It's absolutely essential. This won't—

The Court: I'm just trying to find out.

Mr. Randall: I think it will clarify itself in just a moment or two after two or three questions, Your Honor.

The Court: As a matter of fact, I didn't know why there was an objection about going beyond the period of the indictment before, but, OK, let's go.

(Thereupon the further following proceedings were had in the presence and hearing of the jury:)

Q. (By Mr. Randall) Sir, what were the contributions originally into the Voluntary Fund? A. Twenty-five cents per hour.

Q. Was that both by members and non-members? A. It was by anyone who was working in the area at that time, sir.

Q. Were non-members to pay assessments? A. Yes, they were.

[1,788] Q. To the Local? A. Yes, sir.

Q. And what was the assessment of members and non-members? A. Twenty-five cents per each working day.

Q. Now, if we could come up into November of 1962, sir, what was being paid by members and non-members as assessments in November of '62? A. Fifty cents per day.

Q. By each? A. Yes, sir.

Q. And what was being contributed by members and non-members into the Voluntary Fund? A. Fifty cents per day.

Q. Were you getting ready at that time to begin to negotiate a new contract? A. Yes, we were, in the fall of 1962.

Q. And who was your attorney in that respect? A. Mr. Harry Craig.

Q. And were you consulting with him concerning these matters? A. Yes, we were.

Q. Take this, sir.

Now, sir, were you a member of the Executive Board of Local 562 at that time? [1,789] A. No, sir, I was not.

Q. You were not a member of the Board? A. No, I was the president.

Q. You were the president. Are you a member of the Board now? A. No, sir.

Q. Do you sit in on their meetings? A. I do as the president, I do.

Q. All right, sir. Now, immediately prior to November 21st did you and Mr.—Incidentally, was Mr. Lawler, Mr. John Lawler, an officer of 562 in November of 1962? A. Yes, he was. He was the business manager.

Q. He was the business manager. Was Mr. Callanan an officer of Local 562 at that time? A. No, sir, he wasn't.

Q. Was Mr. Seaton an officer of Local 562 at that time? A. Yes, sir, he was. He was the vice president.

Q. And did he hold an appointive position too? A. Yes, sir.

Q. What was that? A. He also was a business representative.

Q. Now, who were the officers of the Voluntary Fund at that time? A. Mr. Lawler.

[1,790] Q. What was his position? A. He was a director of the Voluntary Fund.

Q. Was Mr. Seaton an officer of the Voluntary Fund at that time? A. No, sir.

Q. Was Mr. Callanan an officer of the Voluntary Fund at that time? A. No, sir.

Q. Prior to this meeting of the Executive Board on November 21st did you have a conference or a meeting with Mr. Harry Craig? A. Yes, sir, we did.

Q. Who was present? A. Mr. Lawler, Mr. Craig and myself.

Q. Was Mr. Seaton present? A. It's possible but I don't recall Mr. Seaton being there.

Mr. Riddle: I didn't hear who he said was present.

Mr. Randall: He said Mr. Lawler and himself—well, pardon me, tell us who was present.

A. Mr. Lawler, Mr. Craig and myself.

Q. All right. Now, sir, did he make any recommendation to you at that time concerning assessments and check-offs?

The Court: "He" being who?

Mr. Randall: Mr. Craig, Mr. Harry Craig.

[1,791] A. Yes, sir, we—

Mr. Riddle: Just a second. I want to object to anything that is not responsive to the question. His answer was "yes."

The Court: All right.

Q. (By Mr. Randall) All right, and what recommendation did he make to you, sir? A. He made a recommendation—

Mr. Riddle: Just a minute, I want to object to that. He can ask him what Mr. Craig said to him. The recommendation would be in the form of a conclusion.

The Court: All right.

Q. (By Mr. Randall) What did Mr. Craig say to you people concerning that subject matter? A. He said it would be perfectly all right and permissible to have a checkoff system.

Q. Anything further? A. Yes, sir, he said we should get into a checkoff system.

Q. Did he say anything with respect at that time to assessments applying to both members and non-members?

A. No, sir, not at that time.

Q. Did he say anything at that time with respect to the Voluntary Fund? [1,792] A. No, sir, not at that time.

Q. Would you open up the minute book and turn to the minutes of the Executive Board for November 21st?

Do you have that there? A. Yes, sir.

Q. Now, did you have any conversation with Mr. Harry Craig concerning the action that was taken at that time?

A. Yes, sir, we did.

Q. Was it prior to the time the action was taken? A. That was prior to the Executive Board meeting, that's correct.

Q. All right. Now, what did he say to you with respect to the action that was taken there at that time?

A. He said it would be perfectly all right to have the checkoff system in its present form the way we discussed with them. We were attempting to get—

Mr. Riddle: I want to object to that as being non-responsive.

The Court: Don't volunteer, Mr. Steska.

Q. (By Mr. Randall) I'm trying to ask you what Mr. Craig told you in connection with that matter. A. He told us in its present form that the checkoff system was fine and he recommended it.

Q. For both the Voluntary Fund— [1,793] A. For both the Voluntary Fund and the dues and assessments.

Q. And for both members and non-members? A. And both members and non-members.

Q. All right. Now, did he tell you you had to do anything in addition to the Voluntary Fund? A. No, sir, not at that time.

Q. Well, was there any discussion concerning the card with Mr. Harry Craig in connection with that? A. Not at that time.

Q. Now, did you take the action then on November 21st that is reflected in that minute? A. We didn't. We attempted to but we—

Q. I know. A. No, sir.

Q. Did you pass that minute? A. We passed this, yes, sir.

Q. Now, would you please read the minute? A. You want the first minutes or just that section?

Q. I would like that part with respect to checkoff and assessments.

The Court: I think, Mr. Steska, what you hold in your hand, you've got the minutes, that is probably a Government exhibit, isn't it?

[1,794] Mr. Randall: Yes, it is, Your Honor.

The Court: What is the number of the exhibit?

Q. (By Mr. Randall) What is the number of that one, sir?

It's 105, Your Honor.

The Court: 105?

The Witness: Oh, yes, right here. Says "Government's Exhibit 105, 9/5/68."

The Court: OK. I didn't think we went that high. OK. This is the beginning of it here.

Q. (By Mr. Randall) First of all, why don't you read the first paragraph and then turn over and read that part dealing with checkoff, et cetera? A. "Meeting of Execu-

tive Board called to order at 1:00 p. m. November 21, 1962. Your Executive Board met again on Wednesday, November 21, 1962, and after long hours of discussion on the many serious problems your business manager and the secretary-treasurer brought to our attention the problem regarding the Local Union's financial condition."

Q. All right, now, would you turn over to the part about checkoff, and may I interrupt you, was this in contemplation of negotiating a new contract at that time?

A. Yes, sir, it was.

Q. When was your contract expiring? A. On the 14th of June, 1963.

[1,795] Q. Now, read that part over there. A. "All of you members know that you have received many pay increases these past fifteen years but your dues have remained the same, although the cost of operating your Local Union has gone up many times over. So has everything else gone up. For these many facts that we have pointed out to you members hoping that you will use sound judgment in your voting. Your Executive Board unanimously recommends that our Local Union members adopt a dues checkoff system for each journeyman and apprentice. That amount shall be 4 per cent assessment plus dues of each member's gross pay to be paid to the Secretary-Treasurer every week by the employer. Out of this the Secretary-Treasurer shall keep two and one-half per cent for the purpose of operating our Local Union. The Secretary-Treasurer shall turn over one and a half per cent of the 4 per cent to the business manager, who has charge of our Voluntary Political, Educational and Legislative Fund. Under our present wage scale this should give the Secretary-Treasurer ninety-two one-half cents a day per man and your Voluntary Political, Educational and Legislative Fund fifty-five one-half cents a day per man. This will mean an increase of 48 cents a day for each member. This 4 per cent assessment plus dues to take

effect as soon as the business manager can get our Contractors Association, and all others who hire our building [1,796] trades journeymen and apprentices to agree to the checkoff system. Brothers, there cannot be any vote or debate on this question today because before you can vote on this recommendation of your Executive Board we now must give reasonable time and send out a letter to each member stating they will be voting on an increase of 48 cents a day. A letter will be sent to each member this coming week notifying them of the increase proposed and that the Board's recommendation will be voted on at our next meeting to be held on December 12, 1962."

Q. Now, that was in the form of a report which you intended to make to the membership on November 24th, am I correct in that, sir, that you have just read? A. That's right.

Q. All right, now, sir, was it your intent and purpose to have this checkoff applied to both members and non-members? A. Yes, sir, it was.

Q. Now, did Mr. Craig tell you that in order to conduct—

Mr. Riddle: I want to object to the form of that question, Your Honor.

Mr. Randall: All right.

Did Mr. Craig tell you anything else was needed in conjunction with that program? A. At that time?

Q. Well, at any time. [1,797] A. Well, he called about a day or so afterwards and told us that we couldn't put in the assessment and Voluntary Fund and the dues check-off as such the way we had it set up there.

Q. Well, all right. Now, why did he tell you you couldn't do that? A. Me—

Mr. Riddle: I want to object to why he told him that?

Mr. Randall: All right, pardon me, sorry. I'll withdraw that question.

Did he tell you why you couldn't do it? A. He told me—

Q. Just answer that yes or no. A. Yes, he did.

Q. What did he tell you was the reason you couldn't do it that way? A. He told us that if we checked off on every employee, 562 members and non-562 members alike, that we would very well open the doors for everybody who was working in our area to become members, and that he strongly advised against it.

Q. Against— A. Against having a checkoff system for anyone other than 562 members.

Q. For assessments? [1,798] A. For assessments and dues, yes, sir.

Q. Did he make any recommendation at that time with respect to continuing assessments for non-members? A. Yes, he said we shouldn't accept assessments from non-members in any form into the Union.

Q. All right. Now, if you will now turn to the minutes of the membership of November 24, '62, and do you find in their that the report of the Executive Board that you just read was presented to the membership, and if you find something like that, read it, please. A. There is a paragraph here.

Q. All right, read that paragraph. A. "Report of the special meeting of Executive Board held on Wednesday, November 21, 1962, at our office was read and it was laid over to our regular meeting to be held on December 12, 1962."

Q. All right. A. "Business Representative Brother John Lawler explained that on advice of our attorneys this would have to be taken up at our regular meeting and all members will be sent a letter on this."

Q. All right, now, Mr. Steska, following that meeting of the membership on November 24th, on the next day did you have a meeting with Harry Craig? [1,799] A. Yes, we did.

Q. And what did he tell you at that time?

Mr. Riddle: I want to object to that also unless he identifies who was present, where and when it occurred.

Q. All right. First of all, I will get to that, but first of all, Mr. Steska, would you look, to help refresh your recollection, at the minute of November 25, '62, the next minute of Executive Board? A. I've got it.

Q. Now, sir, prior to that minute of the Executive Board on November 25th, the next day, did you meet with Harry Craig? A. Yes, sir, we did, Mr. Lawler and myself.

Q. All right, and anyone else? A. Possibly Mr. Seaton was there but I don't recall Mr. Seaton, but definitely Mr. Lawler, Harry Craig and myself.

Q. Were any other attorneys there? A. Not when we discussed it with Harry.

Q. I see, no one else was present? A. No, sir.

Q. All right, now sir, what did Mr. Craig tell you people at that meeting? A. Harry Craig said he had been giving the contemplated checkoff system a considerable amount of thought and he had consulted with his partner, Jack Wiley, and it was [1,800] the consensus of their opinion that we would be wrong if we continued on and put the checkoff system in its present form the way we had tried to adopt it. He recommended that we didn't do that, that we separate the checkoff system, confine it strictly to Local 562 members, completely divorce the Voluntary Fund, set up a separate fund for that, and at no time accept any contributions or any assessments from local—from other than local 562 people into the Secretary-Treasurer's office of our Union.

Q. All right, sir. Now, would you now read the minute of the Executive Board of November 25, '62? A. "Brothers, your Executive Board was again called back into session by your business manager on November 25th, 1962.

"He explained that on the advice of our lawyers for Local Union 562, the lawyers being Mr. Morris Shenker, Mr. John Wiley and Mr. Harry Craig, explained that in their opinion if the members of Local Union 562 voted and adopted a 4 per cent dues and assessment checkoff system, and then took one and one-half per cent from the total 4 per cent for our Voluntary and Defense Fund, we would be in conflict with the Landrum-Griffith Law.

"That is why we recommended that a letter be sent to each member stating that at our next regular meeting on [1,801] December 12, 1962, that you now on that date will be voting for two and one-half per cent of gross pay earned for each day worked, plus \$3.50 per month for dues. All of this money shall remain in the Local Union's treasury for the purpose of operating the Local Union. Starting on the 1st of January, 1963, your Secretary will only collect from dues paying members of Local Union 562, and those on application.

"Your Executive Board realizes that even though you members vote to adopt this two and one-half per cent of gross pay earned by each member for each day worked, plus \$3.50 per month for dues, it is going to take the business manager some time before he will be able to get the employers hiring building and construction trades journeymen to sign supplements or amendments to our present collective bargaining agreements to establish checkoff or periodic dues and assessments,

"The Executive Board recommends that a special meeting be called and that each member be notified by letter when the effective date will be for the checkoff system to start. Until then all members will remain paying the same dues and assessments as we are now paying and they will

be collected in the same manner as they are now being collected.

"Your Executive Board is very concerned about our new coming contract, especially our financial condition. If we have to strike, and we may have to, to gain a decent agreement [1,802] this coming June, something soon will have to be done about raising the money for such necessities as groceries, fuel, rent, and many other things that are both necessary and vital in the winning of a strike. Many other problems which are most serious and vital to the Local came before your Board for discussion. We report to you on some of these at a later date.

"Having no further business your Board adjourned."

Q. Now, Mr. Steska, did the membership meet on December 12th of 1962, to consider that recommendation? A. Yes, sir, they did.

Q. Would you turn to the minutes of that meeting? A. I've got it.

(Thereupon Defendant Union Local 562's Exhibit LL was marked by the reporter for the purpose of identification.)

Q. Now, Mr. Steska, was Mr. Craig and Mr. Wiley present at that meeting of the membership? A. On December 12th?

Q. Yes, sir. A. Yes, sir, they were.

Q. Would you read the minutes of that meeting, sir? A. "Minutes of regular called meeting held at the Teamsters Hall, 4141 Forest Park Blvd. on Wednesday, December 12, 1962.

"Minutes of the meeting held on November 24, 1962, [1,803] were read and were received as read.

"For clarification purposes the report of the Executive Board meeting held on November 21, 1962, was read.

"The Executive Board report of the meeting held on November 25, 1962, was read and on motion it was concurred in.

"Secretary and Treasurer Brother John F. Burke read the financial report of our Local Union for the year starting October 1, 1961, to September 30, 1962, and stated that we went in the red last year \$96,000.

"A motion was made and seconded that Brother Burke's financial report be accepted as read. Motion carried.

"Business Manager Brother John L. Lawler commented on the nice showing of the brother members present at the meeting, and is glad of the interest shown by them by their attendance.

"He read about the two and one-half per cent and \$3.50 dues checkoff system and will do everything possible to have it enjoined in our new agreement.

"He explained that the majority of our contractors do not belong to the Contractors Association and some of them have their main offices elsewhere, so they probably will have to take this up with their lawyers.

"He said there will have to be authorization cards [1,804] signed by our members in order for the contractors to withhold this from your pay and that is the only way it can be done.

"He is concerned about the new agreement as to how they will act when they ask them for what we are going to ask for.

"Some of our members have not worked very steady and some of them have lost their homes, and a lot of our employees have brought this on by chiseling on jobs in order to get contracts and then undermanning the jobs, and also some of our other members are at fault by putting in inferior work and other things for their boss."

Q. Would you move on to the checkoff, the matter concerning dues and assessments and checkoffs? A. Shall I read the letter of notification to the members informing them of what they were going to vote on?

Q. Is there a letter of notification in that minute book?

A. Yes, sir, there is.

Q. And which the members were sent ahead of time and notified of what— A. Informing them of a meeting to be held on Wednesday, December 12, yes, sir.

Q. For the purpose of determining the dues and assessments and checkoff that would be asked for in their new contract? A. Yes, sir.

[1,805] Q. Just read the part of the minutes then concerning the taking of the vote and who took it and who counted it and that sort of thing. A. Disregard this letter?

Q. Yes. A. In order to pick this up I will have to start—"He said we will vote tonight but it will not go"—

Q. Pardon me, "He said," who is talking now? A. This is Mr. Lawler talking.

Q. All right, now, go ahead. A. All right.

Mr. Lawler "said we will vote tonight but it will not go into effect until it is accepted by the contractors and only building trades journeyman pipefitters can vote on it, although the metal trades were invited they don't vote on the question, such as Hussmann Refrigeration Company and metal tradesmen at Midwest.

"All that is to be voted on tonight is the two and one-half per cent and the three dollar fifty cent dues to be checked off by the contractor, and if you are in favor you vote 'yes' and if you are against it vote 'no', and told the members not to let the member next to you see how you vote, and if you don't have enough secrecy go over to the side by yourself and mark your ballot, as this has got to be a secret [1,806] ballot.

"Brothers Joe Brice, Maurice Conlisk, Elmer Arterbury and Herb Tindle were appointed observers, and our lawyers, Mr. Jack Wiley and Mr. Harry Craig, will do the counting of the ballots and certify the count.

"The ballots were passed out to all of the members and while waiting for the count, Business Manager Lawler, called the members to attention and told them that unless it is an emergency call, do not accept any calls from the contractor after 4:30 p.m.

"The count was taken of the ballots that were cast and the official vote verified by Mr. Jack Wiley and Mr. Harry Craig was 'yes', 434; 'no', 12; 'void ballots', 1; 'ballots cast', 447."

Q. Mr. Steska, we have marked here Local Union's Exhibit LL. Is that a copy of that notification that is contained in that minute book? Is that the same thing? A. I believe it is. Yes, sir.

Q. All right.

(Thereupon Defendant Union Local 562's Exhibit MM was marked by the reporter for purposes of identification.)

Q. Now, Mr. Steska, was a meeting called of the Voluntary Fund around this time? A. Yes, sir.

[1,807] Q. Do you know what day, on what day it was called? A. On Sunday, December 16th.

Q. And I will hand you what has been marked Local Union 562 Exhibit MM, and I will ask you what that is? A. It's a copy of a notice sent to—

Q. To whom? A. To all contributors to the political action for the Political Fund, as it is known.

Q. Where did you obtain this copy that is here? Did you obtain this copy? A. Yes, I got that from the printer.

Q. From the printer? A. Yes, sir.

Q. And Mr. Steska, was a meeting of the Voluntary Fund held—

Mr. Riddle: Just a minute, I want to object to the form of that question. That is a suggestive question. There is nothing on this exhibit that indicates it is a Voluntary

Fund. That is a figment of imagination of Mr. Randall. He is putting words in this witness's mouth.

The Court: All right. It will be sustained as to the form of the question.

Q. (By Mr. Randall) Was a meeting of the Voluntary Fund held around that time? [1,808] A. Yes, sir.

Mr. Riddle: I want to object to that. He can describe what kind of a meeting it was. He's suggesting the term instead of asking the witness, Your Honor.

The Court: Well, let him look at this.

I'll sustain the objection. Strike the answer.

Q. (By Mr. Randall) Mr. Steska, was some kind of a meeting held on December 16th, Sunday, 1962, at 3:00 p. m.? A. Yes, sir, there was.

Q. And where was it held? A. I believe it was held at Teamsters Hall, possibly the Electricians hall. We have difficulty sometimes obtaining rental space in the halls on a Sunday.

Q. I show you Local's Exhibit MM and ask you if that refreshes your recollection? A. Yes, sir, it does.

Q. Now, who was notified of that meeting? A. All the contributors that we were able to reach.

Q. Contributors to what? A. To the Voluntary Fund.

Mr. Riddle: I object to that. He can say who was notified. He is giving conclusions on his part. If he knows who was notified. He is generalizing. I ask his answer be stricken.

[1,809] The Court: All right. I'll sustain the objection. The answer will be stricken. The jury will disregard it.

Q. (By Mr. Randall) Who was present at the time at the meeting? A. Members and non-members alike.

Q. Of what group? A. The pipefitters group.

Q. Well, was any vote taken at that meeting with respect to contributions to the Voluntary Fund? A. Yes, there was.

Mr. Riddle: I object to that as a leading and suggestive question. He can ask him what took place and let the witness testify for himself.

The Court: Well, I don't think that question is necessarily leading or suggestive and the answer will stand.

All right, you can proceed.

Don't ask him any leading questions.

Q. (By Mr. Randall) Was a vote taken? A. Yes, sir.

The Court: He answered that.

Mr. Randall: I'm sorry.

Now, what was the result of that vote? In other words, what action was voted on? A. The action that was voted on that the contributions [1,810] to the Voluntary Fund would be increased.

Q. How much and for what group? A. They were increased 50 cents. Let's see. They were increased to \$2.00, I believe, from a dollar and a half to \$2.00, or let me— Could I see that again, the date there, because we had several increases around that period of time.

Q. Mr. Steska, what were the contributions immediately prior to December— A. I've got it now.

Q. You recall that? A. It was 50 cents and 50 cents. It was a dollar a day. It went up fifty cents to a dollar fifty cents.

Q. Went up fifty cents for whom? A. For both. We went up to a dollar for members of 562 and a dollar and a half for non-members of 562.

Q. And immediately prior to that time what was it each paid? A. Fifty cents a day.

Q. Each. All right. Now, sir, was any action taken at that time with respect to collecting assessments from non-members? A. Yes, it was also discussed and voted on that non-members of Local Union 562 would no longer contribute or pay assessments to Local Union 562.

Q. All right. Now, in the meantime, sir, I will hand [1,811] you what has been admitted into evidence as Local 562 Defendant's Exhibit A, sir, and have you take a look at that. What is that, sir? A. This is titled "A Voluntary Contribution Agreement."

Q. Do you know who prepared that agreement? A. Yes, sir, the drafting of the wording was prepared by Mr. Harry Craig.

Q. All right. And do you know when the Union began to obtain these cards, these signed cards then? A. Yes, sir, January of 1963.

Mr. Randall: Your Honor, I now offer into evidence Exhibit LL and MM.

The Court: Be received.

(Whereupon Defendant Union Local 562's Exhibits LL and MM were received in evidence.)

Q. (By Mr. Randall) Now, Mr. Steska, do you remember when you concluded your contract negotiations? A. Yes, sir.

Q. When was that, sir? A. August 29th—Actually August 27th, I believe it was, of 1963, went into effect August 29th, 1963, but we really didn't get the contract signed until sometime in October.

Q. Do you recall when you began to obtain checkoffs of dues and members, dues and assessments of members? [1,812] A. Yes, sir, it went into effect October 14, 1963,

and the dues was checked off starting the first—it would be the 10th of the month of January of 1964.

(Thereupon Defendant Union Local 562's Exhibit NN was marked by the reporter for the purpose of identification.)

Q. Now, Mr. Sfeška, I hand you what has been marked Local Union 562 Exhibit NN and I will ask you if you will look at the second page of that.

What is that? A. It's a notification from the Union to the employers informing them of the dues checkoff and the amounts.

Shall I read it so that they—

Q. Well, who prepared that letter? A. Harry Craig prepared the letter.

Q. All right, and does it tell in that letter somewhere when the checkoffs are supposed to start? A. Yes, sir.

Q. What is the date? A. "We call your attention to the fact that you are to check off and remit to us weekly for and on behalf of all Local 562 employees who execute a checkoff authorization. In the case of the dues which are payable only once each week, as distinguished from the assessments, checkoff dues for all persons on your payroll on the 10th of each month beginning [1,813] January 10, 1964.

"Take notice that checkoff of periodic assessments shall begin as of October 14, 1963, and each week thereafter."

Q. Now,— A. "Checkoff only applies to members of Local Union 562."

Q. Now, I hand you again Exhibit MM and ask you to read that, sir. A. It says, "Dear Sir:

"There will be a meeting concerning political action Sunday, December 16, 1962, at 3:00 p. m. at the Electricians hall, 5850 Elizabeth Avenue.

"Take notice of new location.

"Refreshments will be served.

"Very important . . . Please be present.

"George Seaton

"John L. Lawler"

Q. Now, Mr. Steska, was there a meeting around this time of the Voluntary Fund? A. Yes, sir.

Mr. Riddle: I want to object to that. He can say what kind of a meeting it was and what happened there but for him to characterize it as a meeting of the Voluntary Fund, again, it's nothing that this witness would be suggested for its name, or the question.

[1,814] The Court: I'll sustain the objection.

Come up, please.

Please come up.

(Thereupon the following colloquy ensued among the Court and counsel, at the bench, out of the hearing of the jury:)

The Court: I think in the interest of saving your time and the Court's time and the jury's time that if you will get around to when the thing was named and you can establish from there on, then I don't think there will be any validity to this objection. Until such time as that is done, however, the objection to the validity, I will have to sustain it as I am now.

Mr. Randall: Thank you, Your Honor.

(Thereupon the further following proceedings were had in the presence and hearing of the jury:)

The Court: We will have our morning recess at this time.

Members of the Jury, bear in mind the admonition I have given you before.

(Following a brief recess, Edward M. Steska resumed the witness stand for further direct examination as follows:)

The Court: You may proceed.

Q. (By Mr. Randall) Mr. Steska, I hand you Defendant's [1,815] Exhibit A, "Voluntary Contribution Agreement," and I would like you to read the first paragraph. A. "I, the undersigned, of my own free will and accord desire to make regular contributions to the Political, Educational, Legislative, Charity and Defense Fund, which has been established and will be maintained by persons who are members of Local Union No. 562."

Q. All right, sir, I will ask you when was the name given to the Fund, "Political, Educational, Legislative, Charity and Defense Fund"? A. January 1963.

Q. Prior to that time what name did you call it? A. It was commonly known as the Political Fund.

Q. All right. Now, my question is, sir, was a meeting held of the contributors to the Political, Educational, Legislative, Charity and Defense Fund, held in October 1963?

Mr. Riddle: Your Honor, I object to the form of that question. It's leading and suggestive. He can state who was there.

The Court: Well, it can be either way, depending on, I would think that—When was this, October '63?

Mr. Randall: Yes, Your Honor.

The Court: I am going to overrule that objection.

Q. (By Mr. Randall) You may answer the question. [1,816] A. Yes, sir, there was a meeting.

Q. Do you recall when it was held? A. No, sir, I can't recall the exact date. It was sometime in October, after a regular Union meeting.

Q. Do you recall where it was held? A. It was held at the Electricians hall.

Q. Now, sir, do you know whether or not the contributors to the Fund were notified of the meeting? A. Yes, sir, I am sure they were.

Q. Have you been able to find a copy of the notice from the printer? A. Unfortunately not. He went through all his files and he couldn't come up with several notices, but that was one of them.

Q. All right, sir, what action was taken at that meeting? A. It was voted on that the contributions for non-members of Local Union 562 be increased to \$2.00 per day.

Q. Now, Mr. Steska, would you look at the Executive Board meeting minutes of November 3, 1965? A. I would have to get that book of minutes.

Q. Oh, I'm sorry.

Now, Mr. Steska, I hand you Government's Exhibit 106 and I will ask you to look at the minutes of the Executive Board meeting of November 3, 1965. [1,817] A. I have it.

Q. Was there any action taken there with respect to assessments of members? A. Yes, sir.

Q. Would you read the minute on that, please? A. "Executive Board meeting called to order November 3rd, 1965, Pipefitters office, 1242 Pierce Avenue, St. Louis, Missouri.

"Brothers, your Executive Board has been concerned for several months regarding the treasury and financial condition of Local Union 562. It is one of our main duties, each of us, that you elected to see that at all times we remain as financially sound as we possibly can be. We have discussed this problem many times with your Secretary-Treasurer, Brother Burke, and your Business Manager, Brother John Lawler, and Brother Callanan. We believe when the details are explained to all of you, all will agree as we do on this matter, because this will be not one extra

penny cost to members of Local Union 562. Therefore your Executive Board unanimously recommend that our present periodic dues of the building trades members, which are \$3.50 per month plus two and one-half per cent of gross pay earned for each day worked be changed to \$3.50 per month plus three and three-fourths per cent of gross pay earned each day to take effect January 1, 1966.

"Your Executive Board understands that a special [1,818] letter will be sent to each member of Local 562 and all other out-of-town men who will qualify and have 2,000 hours worked paid on them. Also that their wives will be invited to take part in the paying out of our first vacation money to you members. Refreshments will be served. It will start at 7:30 the night of December 6 at the Arena. Brothers, everyone who will be qualified and receive a letter please be there with your wife to receive your vacation check. As some may get lost in the mail, or sent to the wrong address as some members may have moved. The Welfare Director Brother Henry will explain and answer any questions you may have on this vacation money to be paid.

"Your Executive Board discussed many other matters regarding the good and welfare of Local Union 562 and will report on some of these matters at a later date.

"Meeting adjourned at 5:00 p. m."

Q. All right, would you look at the minutes of the membership, meeting of the membership of November 10, 1965, and see if that recommendation was approved by the membership? A. "A motion was made by Brother R. Kellet and seconded by Brother Joe McBride that the item of the Executive Board's report referring to the checkoff system, and also the report in its entirety be accepted. (Motion carried.)"

Q. And this increase in the assessments effective January [1,819] 1 of '66 is the one that is reflected here on this exhibit, is that right? A. Yes.

Q. You identified that exhibit before, you recall that?

A. Yes, I did.

Q. And the increase was from what percentage to what percentage? A. From two and a half per cent of gross pay to three and three-quarters per cent of gross pay.

Q. And do you know what this chart was based on, which zone or which group reflects this chart? A. I imagine it's based on zone 1 from what I can see there.

Q. And if it were based on zone 2 would it be different?

A. Oh, yes, and also zone 3 will be increasingly higher.

(Thereupon Defendant Union Local 562's Exhibit OO was marked by the reporter for the purpose of identification.)

Q. I show you what has been marked Local 562's Exhibit OO and I will ask you if you can tell me what that chart is, sir? A. Can I—

Q. Just tell me what it is first. A. Daily dues and assessments of members of Local 562, zone 1 in blue, zone 2 in red, zone 3 in green.

Q. And that is based on the percentage of assessments [1,820] now in effect? A. I would say yes, sir.

Q. And on the present pay scale? A. Yes, sir.

Mr. Randall: I offer it into evidence, Your Honor.

Mr. Riddle: We have no objection, but I think the date ought to be attached to it, otherwise we would have no idea—

Mr. Randall: Well, I will ask him those questions again.

The Court: Well, of course, he's already indicated the date was January 1966, wasn't it?

The Witness: This is the present time.

The Court: Oh. Well, the question is was it in effect since January 1966?

The Witness: No, Your Honor.

The Court: This is the present one?

The Witness: Yes, sir.

Q. (By Mr. Riddle) So that looking at that chart, sir, will you tell me from that chart what the assessments and dues of a journeyman of Local 562 amount to for one day, in one zone? A. Mr. Randall, I would appreciate it if you would bring it a little bit closer——

Q. You can't see?

[1,821] The Court: Two dollars and one cent. I can't see the middle.

Mr. Randall: I will move it up a little closer.

A. Tired old eyes are playing tricks on me.

Q. Can you see it there? A. Yes, sir.

Q. What is the dues and assessments of a journeyman for one day in zone 1? A. Dollar eighty-four cents.

Q. And in zone 2? A. Dollar ninety-five—One nine five.

Q. Is that one nine five? A. Oh, you're moving over into zone 2. One nine nine. I follow you.

Q. Zone 3? A. Two 0 six, journeyman.

The Court: You're getting over into foreman and everything. The journeyman is one eight four, one nine five and two 0 one, depending on the zone, and it goes up for everybody else, and the chart shows it.

Mr. Randall: All right, I mixed them up.

Now, Mr. Steska, was there a meeting held in November of 1965 of the contributors to the Political, Educational, Legislative, Charity and Defense Fund? [1,822] A. Yes, sir, there was.

Q. Can you recall the date of the meeting? A. No, sir, I can't.

Q. Do you recall the place of the meeting? A. I am almost certain it was the Electricians hall.

Q. Do you recall whether it was following a meeting of the Local or whether it was a separate meeting? A. I would say that it was a separate meeting.

Q. And were the contributors notified of the meeting? A. Yes, sir.

Q. And what action was taken at that meeting? A. They voted to increase the contributions to the Voluntary Fund from a dollar and a half to two dollars.

Q. We are now talking about 1965? A. 1965, and also to—let me go back a little bit, Mr. Randall.

We are moving this thing up and down here on these—

Q. Looking at this chart here, sir. A. Yes, by that time we had already voted, the contributors had already voted the two dollar voluntary contributions for non-members of Local 562. In that November '65 meeting it would have been voted on that we decrease the contributions of Local 562 members into the Voluntary Fund.

Q. By how much? [1,823] A. About fifty cents per day.

Q. Now, Mr. Steska, does your By-Laws and Constitution have a provision with respect to the payment of dues and assessments? A. Oh, yes.

Q. What does it say in that respect? A. It's in Section 142 of our Constitution.

Q. What does it say? A. "Effective January 1, 1967, the dues of each member of a Local Union shall not be less than five dollars per month. The dues of a new member shall commence from the date of initiation. Members initiated in any Local Union before the 20th of the month shall pay dues for that month. On and after the 20th of the month, the dues shall commence on the first of the following month.

Q. A Local Union shall increase dues or levy an assessment upon the membership by a majority vote by secret ballot after written notice shall have been given to the membership of the intention to vote upon the dues increase or the levying of an assessment. The written notice shall set forth the time and place where the vote will be taken, either at a regular or special membership meeting."

Q. Well, is there anything in there about payment or non-payment of dues? [1,824] A. Yes, sir, this is Section 176. "A member owing over three months' dues shall automatically be suspended from membership without notice of any kind. A suspended member is denied all rights and privileges and is not entitled to any monetary benefits."

Q. Now, does the By-Laws and Constitution have a provision with respect to a travel card? A. Yes, sir, it does.

Q. Would you read that, please? A. This is Section 180. "There shall be a card known as a travel card issued by the Financial Secretary of the Local Union only to Building Trades journeymen members fulfilling the conditions prescribed by sub-section (b) of this section, who desire to travel from one Local Union to another in search of employment. Travel cards shall be furnished to the Local Unions by the General Office and shall be in such form as the General President shall prescribe. Any Building Trades journeyman member shall obtain a travel card from the Local Union in which he holds membership before traveling to another local Union. Upon issuance, each travel card shall be signed by the member who receives it in the presence of the Secretary issuing the same.

"(b) A travel card shall be null and void unless deposited in a Local Union within thirty days from the date of [1,825] issuance thereof, or, in the event of further travel as provided for under sub-section (j) of this section, from the date of release of such card.

“(c) A travel card shall be issued to a Building Trades journeyman desiring same, if he meets the following conditions:

“(1) He must be in good financial standing with all legal and valid financial obligations paid up to date;

“(2) He must have held membership in the United Association for at least one calendar year just prior to the issuance of the card;

“(3) He shall not have charges pending against him for violating the rules or laws of the United Association or an affiliated Local Union.

“(d) Within thirty days from the date a travel card is issued, or, in the event of further travel, then within thirty days from the date of release of such card, the Building Trades journeyman member holding such card shall deposit it in the Local Union to which he is traveling, or return such card to his home Local Union. Such member desiring to deposit a travel card shall present it, together with his due book, to the Local Union Business Manager, or the officer or agent designated by him to receive travel cards, or, if there is no Business Manager, then to the Local Union Business Agent, or [1,826] the officer or agent designated by him to receive such cards. Such officer or agent shall accept any travel card properly presented by a Building Trades journeyman member. Upon such member depositing the travel card, he shall again be required to sign his name in the presence of the Local Union officer or agent receiving it for identification purposes. Such officer or agent shall, upon accepting such card, and in such manner and within such time and on such forms as the General President shall prescribe, give, or cause to be given, notice of deposit to the home Local Union of the traveling member.

“(e) Should any question arise as to the legality or validity of the issuance or acceptance of the travel card,

the officer or officers of the Local Union issuing or accepting the travel card shall give immediate notice to the General President who shall take appropriate action to adjust or decide the question so raised. The decision of the General President shall be final and binding, and there shall be no appeal from the decision of the General President to the General Executive Board.

“(f) When a member deposits his travel card in a sister Local Union, he shall continue to pay all his regular dues and assessments to the Local Union in which he holds membership, and shall retain all rights and privileges of membership in his home Local Union. Violation of this sub- [1,827] section shall be deemed just cause for a Local Union to refuse to accept further travel card dues from the traveling member and shall render the travel card null and void.

“(g) The traveling member shall also pay travel card dues in the sum of \$8.00 per month in advance to the Local Union in which his travel card is deposited to help defray the additional administrative and collective bargaining expenses incurred by said Local Union and shall be given a receipt for payment of said dues. A member depositing a travel card in a Local Union before the 20th of the month shall pay travel card dues for that month. If such member deposits the card on or after the 20th of the month, the dues shall commence on the first of the following month. Such member shall be required to make payment to the Local Union in which his travel card is deposited only as set forth in this subsection and, except for such fines as may be lawfully levied under this section, he shall not be required to make any additional payments of any kind for any reason whatsoever.

“(h) Such member shall not be entitled to voice or vote in the Local Union in which his travel card is deposited, but shall enjoy the privilege of attending the

meetings of the Local Union, upon presentation of his due book properly stamped.

“(i) The traveling member shall abide by all working rules and regulations, or by-laws relating to working rules and [1,828] regulations, and collective bargaining agreements in effect in the Local Union in which his travel card is deposited. A traveling member violating this subsection shall, after notice and hearing, be fined not more than \$100.00 by the Local Union in which his travel card is deposited.

“(j) A Building Trades journeyman member who has deposited his travel card in a Local Union, and who desires to travel to another Local Union in search of employment, or to return to his home Local Union, must apply for his travel card to the Local Union Business Manager, or officer or agent designated by the Business Manager to release travel cards or, if there is no Business Manager, then to the Local Union Business Agent, or the officer or agent designated by the Business Agent to release such cards.

“(k) Upon payment of all travel card dues owing to such Local Union, including such dues for the month in which release occurs, and upon payment of any fines lawfully levied by such Local Union, and all dues, assessments and financial obligations due to his home Local Union, such authorized officer or agent shall release to him his travel card by signing the same and securing the signature of such member thereon. Such officer or agent shall, upon releasing such travel card, and in such manner and within such time and on such forms as the General President shall prescribe, give, or cause to be given, [1,829] notice of release to the home Local Union of such member. The date of release shall be specified on the travel card.

“(l)——

Q. Mr. Steska, would you now turn without reading all the further details to the provisions concerning transfer cards? A. There's only a little bit to finish this and I think it's important.

Q. All right, go ahead. A. "Travel dues paid by a member shall be given credit by a sister affiliated Local Union during the currency of the travel dues period, upon presentation of a valid travel dues receipt.

"(m) Notwithstanding any other provision of this section, a Local Union may refuse to accept a travel card during a strike or lockout involving such Local Union, or if such card has been altered or defaced. Notwithstanding any other provision of this section, where Local Unions have an established custom or practice or by mutual agreement or consent permit the members of their respective Local Unions to work in each other's territory without the necessity of the issuance and depositing of travel cards, the General President may, in his discretion, waive the applications of this Constitution dealing with travel cards as they may apply to such Local Union or Local Unions. The General President may [1,830] direct said Local Union to abide by and carry out said established custom or practice, or mutual agreement or consent, to permit the members to work in each other's respective jurisdiction without the issuance or depositing of a travel card."

I can go on, but that was—a continuation—

Q. The part about transfer cards. A. This is Section 181. "(a) There shall be a card known as a transfer card issued to journeyman members of the United Association. When transfer cards are issued, they must specify the type of membership, whether Building and Construction Trades, Metal Trades, or Combination Local Union, and if a Combination Local Union, the transfer card shall state in what branch the member was affiliated, whether

Building and Construction Trades or Metal Trades, and state date of initiation and/or reinstatement by which Local Union. A journeyman member shall be entitled to deposit his transfer card only in a Local Union having trade jurisdiction over the craft in which he is qualified. A transfer card issued:

“(1) To a journeyman holding a membership in a Building and Construction Trades Local Union can be deposited in a Building and Construction Trades Local Union, a Metal Trades Local Union, or a Combination Local Union.

“(2) To a journeyman member of a Combination Local Union affiliated with a Building and Construction Trades branch [1,831] of a Combination Local Union may be deposited by a journeyman member in a Building and Construction Trades Local Union, or in a Metal Trades Local Union, or in a Combination Local Union.

“(3) To a journeyman member of a Metal Trades Local Union or a Metal Trades journeyman member of a Combination Local Union can only be deposited in a sister Metal Trades Local Union or in the Metal Trades branch of a Combination Local Union, and cannot be deposited in a Building and Construction Trades Local Union.

“(b) Transfer cards shall be in such form as the General President shall prescribe and shall be furnished by the General Office. Transfer cards shall be issued by the Financial Secretary of the Local Union only to journeyman members who have completed two calendar years of membership in the United Association immediately prior to the date of issuance.

“(c) A journeyman member requesting a transfer card must file a signed statement with the Local Union satisfactorily showing that he is permanently changing and moving his domicile and residence to the territorial jurisdiction or area of the Local Union to which he desires to transfer his membership.

“(d) No transfer card shall be issued to a journeyman member unless also he has had a valid travel card on file in the Local Union to which he wishes to transfer for at least one year prior to his application for the transfer card.”

[1,832] Q. Is that sufficient reading to that point or is there something else significant? A. Well, I can go on. It's up to the Court.

Q. In other words, he cannot get a transfer into the Union unless he has a travel card on deposit for a year, is that right? A. That's correct.

Q. Now, sir, did you have a conversation with Mr. Craig concerning travel cards? A. I did.

Q. Do you recall where it was? A. It was in our office.

Q. And when it was? A. It was the same time we talked about the dues checkoff system.

Q. And what did Mr. Craig tell you concerning travel cards? A. He told us we shouldn't take any travel cards, it had been our custom anyway, as far as I know this Local has never taken any travel cards.

Mr. Riddle: I object to that as not being responsive and ask it be stricken and the jury instructed to disregard it.

The Court: All right, I'll sustain the objection. [1,833] The jury will disregard the answer.

Mr. Steska, just answer the question and then if there's some explanation necessary, I'm sure Mr. Randall will elicit it on proper interrogation.

Q. (By Mr. Randall) What did Mr. Craig tell you concerning travel cards? A. He told us not to take travel cards.

Q. Did he tell you why? A. Yes, he told us that if we took the travel card we were again opening the door for potential membership.

Q. Now, who prepared the LM-2 forms for the Labor Department for your Local A. They were prepared by Mr. Carroll Shelton on the auditing and Mr. Harry Craig and Jack Wiley of the firm of Wiley, Craig, Armbruster & Wilburn.

Q. Now, Mr. Steska, who owns the building down there where the Local has its offices? A. The Welfare Department owns the building.

Q. And does the Local pay rent to the Welfare Department? A. Yes, sir.

Q. Does the Fund, the Voluntary Fund pay rent to the Welfare Department? A. Yes, sir, it does.

Q. Was a meeting of the Fund held on June 12th of this [1,834] year?

Mr. Riddle: I want to object to that for the same reasons we have indicated before. This is calling for a conclusion. It's suggestive. He can state what type of meeting and who was there but when he characterizes it as that, I think he is suggesting an answer.

The Court: Oh, I'm going to overrule the objection.

Q. (By Mr. Randall) Was a meeting held? A. Yes, sir.

Q. Were the members of the Local 562 segregated from the non-members? A. They were.

Q. And in what manner, sir? A. The Local 562 members were asked to sit on one side of the hall and the non-members of Local 562 were asked to sit on the opposite side of the hall.

Q. Approximately how many non-members were there, sir? A. I'd say well over 200, possibly 250.

Q. Was a vote taken at that time as to whether or not to continue the Fund? A. Yes, sir.

Q. And what was the vote? A. The vote was 743 to continue the Fund and 5 not to continue the Fund.

[1,835] Mr. Randall: You may inquire.

Your Honor, I think maybe—pardon me, I'm not sure I offered Exhibit NN.

The Court: All the exhibits have been received but one, which is from the United Association, and Mr. Riddle asked to look at that. I don't know the number of it. I don't know which exhibit that is.

Mr. Nangle: II.

The Court: Do you have any objection to that exhibit?

The Witness: I think you asked me to take it off of there.

The Court: Well, right, keep it segregated.

Mr. Riddle: Your Honor, I would like to withhold until I have a chance to look at it during the noon hour.

The Court: All right, everything but II will be received, in order to give them an opportunity to examine it.

(Whereupon Defendant Union Local 562's Exhibits NN and OO were received in evidence.)

Cross-Examination.

By Mr. Riddle:

Q. Sir, you have testified as to a number of meetings of a group of pipefitters that according to your testimony were not regular meetings of Local 562? A. Yes, sir, that's correct.

[1,836] Q. Did you attend all such meetings? A. Yes, sir.

Q. Were you an officer of this group? A. No, sir, I was not.

Q. Sir, were any minutes ever kept of these meetings? A. Not that I know of. I would say no, with the possibility of the one on May 15, 1966.

Q. May 15, 1966? A. That is the only one I'm familiar with.

Q. Well, sir, was anybody appointed recording secretary or anybody appointed to keep notes of what transpired at these meetings? A. Not that I know of.

Q. Well, how were they conducted, by any particular rule? A. Well, the meeting was chaired by the Director of the Voluntary Fund. At that particular time it was Mr. Lawler.

Q. All right. This so-called group didn't have any by-laws? A. No, sir.

Q. Never kept any minutes? A. With the exception of the one. That's the only set of minutes that I know of.

Q. And nobody ever took any notes of what was happening at any of these meetings as far as you know? [1,837] A. Not that I know of.

Q. Sir, I want to direct your attention to the events of 1962, and particularly to a meeting or meetings relating to the raising of funds. Do you remember referring to them in your direct testimony? A. Yes, sir.

Q. Do you remember a discussion or series of discussions along about the fall of 1962 in which the Union was having some financial difficulties? A. Yes, sir.

Q. I believe you said that at that time the members were paying 50 cents a day assessment? A. That's right.

Q. And that they were also paying an additional amount for a Political Fund? A. That's correct.

Q. How much was the additional amount? A. Fifty cents.

Q. So they paid the same amount for one purpose as they paid for the other? A. Yes, sir.

Q. Now, this fifty cents was a flat figure. It wasn't tied into a—into the number of hours worked, for example, if you worked ten hours it was still fifty cents? [1,838] A. No, sir, it wasn't. It was based on an 8-hour working day.

Q. All right. If it was more than eight hours, why, at this time it would be a little bit more than fifty cents? A. It increased, yes, sir.

Q. Now, the amount that was paid into the "Voluntary Fund" or into the Political Fund at that time, was that increased above fifty cents, if there was a 10-hour day? A. I believe it was, yes, sir.

Q. Exactly the way the dues were, the assessments? A. The best of my recollection they were both the same.

Q. The formula was precisely the same, wasn't it? A. Yes, sir.

Q. Now, at that time every person on the job paid this fifty cents for political purposes and he also paid the fifty cents for an 8-hour day for Union purposes? A. In 1962?

Q. Yes. A. Yes, sir.

Q. And this was collected out on the job? A. Yes, some of it. Some of it was brought directly into the Union hall.

Q. But most of the collections were out on the job by stewards or foremen? [1,839] A. The majority of them, yes, sir.

Q. Well, about 95 per cent of them, wouldn't you say? A. Well, I wouldn't give any percentage but it was collected or contributed both ways, on the job and in the Union hall.

Q. Now, at that time was there a separate bank account used for the money that was pulled into the Political Fund? A. Yes, sir.

Q. Who was in charge of that bank account if you recall? A. 1962 it would have been Mr. Lawler.

Q. All right, now, if I recall your reference to the minutes, I will ask you if there was a discussion that you recall independently of the minutes that some of the people out on the job were chiseling on the payment of their dues and on the payment into this Political Fund? A. In 1962?

Q. Yes. A. There not only was a discussion, it is part of the minutes right there. It was brought up by the Executive Board.

Q. That people out on the job were chiseling on both payments? A. That was a figure of speech used by the Executive Board, that's correct.

Q. Well, now, what does chiseling mean to you if you [1,840] refer to it as a figure of speech? A. The Executive Board at that time, if you let me read the Executive Board—

Q. I am just asking you. You refer to chiseling as a figure of speech. What do you understand chiseling to be? A. They weren't paying the correct amount in the opinion of the Executive Board.

Q. They weren't paying all that they were obligated to pay, were they? A. That's correct.

Q. And they were chiseling on their payments to the Political Fund? A. And also to the Union.

Q. Both ways they were chiseling? A. Yes, sir.

Q. In the judgment of the Executive Board? A. That's correct.

Q. And because of this chiseling there was a desire to police or somehow institute a system that would insure a higher percentage of collection of their obligations? A. That was one of the reasons, yes, sir. Another one was to have a better bookkeeping system and to avoid these collections or contributions on the job.

Q. Well, let me see if this pretty well characterizes it. [1,841] "All of us know we have some chisellers who do not pay their rightful share, some who do not pay on their overtime. Your Executive Board does not think it is right to make some men pay every week and others pay when they feel like coming in to see the Secretary. Some come in once a month, others every three or six months, and

some once a year. This kind of a system can no longer go on."

Does this seem to reflect the attitude of the Executive Board?

A. That tells it exactly, yes, sir.

Q. Now, then, at that time a discussion was had as to what type of machinery or what type of a program could be initiated for the purpose of seeing that both funds or both amounts were paid from all members for all work that they did. A. At that time it wasn't all members, it was everybody.

Q. Yes, sir. A. That's right.

Q. Now, then, in order to insure the elimination of the chiselers, paying into both funds, it was reported to the membership that a new system was being contemplated?

A. That's right.

Q. Now, then, this new system that was being contemplated, see if this refreshes your recollection:

"All of you members know,"—and by the way, were all [1,842] the members there present? A. We didn't—

Q. Well— A. I would say there was a large body of them there, Mr. Riddle.

Q. So all the members, I assume, were told this? A. Yes, sir.

Q. "All of you members know that you have received many pay increases these past fifteen years but your dues have remained the same, although the cost of operating your Local Union has gone up many times over, and so has everything else gone up. But these many facts that we have pointed out to you members hoping that you will use sound judgment in your voting. Your Executive Board unanimously recommends that your Local Union members adopt a dues checkoff system for each journeyman and apprentice and that that amount shall be 4 per cent assessment plus dues of each member's gross pay to be paid to

the Secretary-Treasurer every week by the employer, and out of this?—that would be out of the 4 per cent gross assessment—"Out of this the Secretary-Treasurer shall keep two and a half per cent for the purpose of operating our Local Union. The Secretary-Treasurer shall turn over one and one half per cent of the 4 per cent to the Business Manager, who has charge of our Voluntary Political Educational and Legislative Fund."

[1,843] So at that time it was decided by the Board of Directors and so recommended to the membership that this was the way that the Political Fund was to be collected, and this is the way the assessments and dues were being collected, this was the decision made? A. Yes, this was patterned exactly after the Teamsters program. That is why we set it up like that.

Q. Sir, who told you to say that? Was that responsive, in response to this question? A. We're talking about this Fund. This Fund was identical to the Teamsters'.

Q. Yes, sir. Now, sir, at that time when you were thinking about this, if you recall, you had in mind to get more money into the organization and you went on ahead to say this, as I recall: "Under our present scale this should give the Secretary-Treasurer ninety-two and a half cents a day per man and your Voluntary Political, Educational, Legislative Fund fifty-five and a half cents a day per man. This will mean an increase of 48 cents a day for each member."

Now, "this 4 per cent assessment, plus dues, to take effect as soon as the Business Manager can get your Contractors Association and all others who hire our Building Trades journeymen and apprentices to agree to the check-off system."

Now, at that time this checkoff system that you [1,844] contemplated would have had the employers to check off both the payments to the Political Fund and to the regular Secretary and Treasurer fund? A. He would have

only checked off 4 per cent, that's all. One checkoff. It would have been handled in the Union office.

Q. So I understand your testimony, you were told that that might present some legal questions? A. Yes, we were informed by Harry Craig.

Q. So in your negotiations or so in your subsequent conduct, you didn't increase your assessments 4 per cent but you increased them how much? A. Two and a half per cent.

Q. And then you set your Voluntary payments for an amount that totaled approximately 4 per cent, did you not? A. Yes, sir, it would have been very close.

Q. So the net result of what you did, even with Mr. Craig's advice, was precisely what you planned to do earlier, wasn't it? A. If we would have been permitted to do, yes, sir.

Q. Well, sir, didn't you continue then to collect that amount from each of your members for assessment? A. For assessment it was two and a half per cent, but on the Voluntary Fund that was strictly voluntary. I would have no idea if everybody paid or not. It was on a voluntary [1,845] basis.

Q. Yes, sir. Now, on that point, at what point, at what time, did this go from a forced payment and people who didn't pay were chisellers, at what point in that year, or in that week, or in that night, did it change from a chiseler's refusal to pay to a non-voluntary refusal to pay, can you tell the Court and jury that? A. The checkoff system was not put into effect until the following October, October 14, 1963. However, it had been attempted to be negotiated prior to that, and we were unsuccessful until the completion of our contract. When we finished the contract the checkoff system went into effect dated October 14, 1963.

Q. And sir, these people who were told in November of 1962 that if they didn't pay were chiselers— A. There was no individual told, Mr. Riddle.

Q. But all of the people there were told— A. Only by a reference.

Q. Yes. A. That some people hadn't been paying?

Q. They were told at that time if they didn't pay "we consider you chiselers"? A. Absolutely.

Q. And you say just within a matter of a few months [1,846] they were told that, "Now, you pay it now, if you want to"? A. Now, you're talking about the Voluntary Fund now?

Q. Yes, sir. A. Just prior to that you were talking about the assessments. The assessments still had to be paid. If they don't pay them a member will be suspended.

Q. Yes, sir. Sir, didn't I recall your testimony to be that the characterization of chiselers also applied to those who weren't paying into the Political Fund? A. That was a broad statement, Mr. Riddle, in that Executive Board record. I don't think we could define it at all there. It was those who weren't contributing or paying. If you will read the Executive Board report, it said, "We all know there are some chiselers." They didn't define it as far as any particular group of people. We were talking about in generality. We felt there were certain people who were not paying their rightful share.

Q. Following that, sir, had you continued with your previous plan of having the payments for the Voluntary Fund checked off by the employers, the amount that the Union received for both assessment purposes and into the Voluntary Fund would have been about the same, wouldn't it? A. Yes, sir, but we didn't continue. Harry Craig told us we couldn't, so we dropped it. We couldn't continue it at all.

[1,847] Q. What was it you discontinued? A. We discontinued the setup that we originally planned with the 4 per cent and the one and a half per cent on the Voluntary Fund, we discontinued that on the advice of Harry Craig and went strictly with the original two and a half per cent assessment plus the three dollars fifty cents per month dues. We no longer tried to negotiate anything on the Voluntary Fund basis.

Q. All right. So instead of doing that, you just continued collecting the money into the Political Fund that you now call the Voluntary Fund from the members out on the job, just like you had theretofore collected both the assessments and the political contributions, isn't this the way you continued to collect it? A. It wouldn't have been collected that way.

Q. Sir? A. Number one—

Q. Just a minute, just a minute please. Will you please answer that question? Isn't that the way you continued to collect it? A. No, we didn't continue to collect it like that. These were contributions. These were not collections. Once that thing became a separate entity there and became a Voluntary Fund, there were no more collections. I don't say that contributions [1,848] weren't accepted along the same lines, but there were no more collections made. These were all contributions. This was set up by Harry Craig as a means and a legal means to do this. At no time have we ever tried to circumvent the law along those lines.

Q. Well, now, sir, at that time wasn't it discussed, don't you recall a discussion that you couldn't use Union funds or money collected from your members for federal political contributions. A. It certainly was, absolutely it was discussed. Harry Craig was specific that we shouldn't attempt to do that, even though he had set up and it was a major factor in the Teamsters' setup, he was a little more discreet with ours. He said, "I don't believe we

ought to do it." He said, "I think you would be better off on a voluntary basis."

Q. Yes, sir. Now, then, sir, in the operation of this Fund and in the collection of it, collection of monies into it, that you call this voluntary assessment, or voluntary payment, just tell the Court and jury in what ways that differed from the previous collection of assessments off the job? A. It probably wasn't very little physical difference there.

Q. Let's just talk about any difference. Name me one [1,849] difference. A. Number one, those who didn't wish to contribute didn't contribute. That is the difference right there.

Q. No, no, sir, my question is was there any difference in the way of collecting it? A. To those who wanted to contribute, no. To those who didn't want to contribute, yes, because they didn't contribute at all then. Prior to that they all paid.

Q. Are you saying that the collections were made in exactly the same way for money into the so-called Voluntary Fund as was made for money into the regular Union account? Is your answer to that yes or no? A. Mr. Riddle, you keep going back to the collections. I would like to clear that up. If we are going to have an honest answer back and forth, let's call them what they are. They were contributions and we did. The contributions were given to people on the job. Some of the people would bring them in to the office. Sometimes the contractors would mail them in. Sometimes they would come in personally.

Mr. Riddle: If it please the Court, I would like to ask the Court to direct the witness to answer the question.

The Court: I think the question could be answered, Mr. Steska, and if it is necessary for an explanation you may make it now or have it elicited by your counsel on re-

direct [1,850] examination. So answer the question first, and I think in the interest of saving time if you will reask the question, why—

Q. (By Mr. Riddle) Sir, was the method of collection any different, that is collection into the so-called Voluntary Fund from the method of collection used to pick up the dues and assessments before the checkoff period? You can answer that yes or no. A. To those who wanted to contribute, no.

Q. No? A. There was no difference to those who wished to contribute.

Q. Sir—

The Court: Would you indicate to me when you think it would be a good place to stop for the lunch hour?

Mr. Riddle: This would be all right at this point.

The Court: Members of the Jury, we will recess for lunch until 2:00 o'clock. Bear in mind the admonition I have given heretofore.

(Thereupon at 12:40 p. m. court was recessed for lunch until 2:00 o'clock p. m.)

Tuesday, September 17, 1968.
Afternoon Session.

EDWARD M. STESKA,

[1,851] recalled, having previously been sworn, testified further on cross-examination as follows:

Q. Sir, to return to the meeting or the situation that existed in the latter part of—

The Court: Just a minute, Mr. Riddle, have you had a chance to look at II during the lunch hour?

Mr. Riddle: I have not, Your Honor.

The Court: Well, I wish you would so I can keep the record.

Mr. Riddle: Well, we will take a look at that at recess.

The Court: Fine.

Q. (By Mr. Riddle) Sir, I want to address your attention to the amount of additional money that the Union was considering raising and the advisability of raising in the fall, late fall or early winter of 1962. As I recall your testimony you, up until that time, you were getting fifty cents from your regular members a day, and you were getting fifty cents a day for the Political Fund? A. That's right.

Q. Now, then, for your out-of-towners, you were getting fifty cents a day assessment and fifty cents a day in the Political Fund from them? A. That's right.

[1,852] Q. And do I recall your testimony to be that you wanted to get, and first I want to direct your attention to your regular members, the proposed increase at that time would raise that from one dollar a day up to what figure? A. It would have been approximately a dollar fifty cents.

Q. A dollar and fifty cents? A. Total, yes, sir.

Q. Total, and at that time did you make a decision as to what you wanted to get from the out-of-towners per day? Would that be the same thing, a dollar fifty cents? A. We didn't make the decision. That was done at a meeting.

Q. Well, at the meeting was that decided, to get that amount from the outsiders, one dollar fifty cents a day?

A. At a Voluntary Fund meeting it was, back in the fall of 1962.

Q. Yes, so I can keep the years straight. Now, at this meeting that you referred to as a Voluntary Fund meeting, that didn't occur until after the 1st of January, did

it? A. I believe it would have been in December. I don't recall the exact date.

Q. All right. Well, in order to get it cleared, before you got some advice from counsel—— A. That was in November.

[1,853] Q. In November, what were you planning to do with the out-of-towners? A. Everything was going to be the same. It was going to be 4 per cent across the board for everybody.

Q. So that would be a dollar and a half from out-of-towners and a dollar and a half for the regular members?

A. Well, no, if we would have had it on the 4 per cent it would have been on a percentage basis of their gross pay, so that could have varied.

Q. Yes, but it would have been approximately a dollar and a half? A. Based on the wage rates at that time it would have been fairly close, yes, sir.

Q. Now, you say that something happened that caused you to change your approach to the money you received from out-of-towners and you got some advice from your counsel, Mr. Craig. Now, what was that advice? A. That we didn't accept anything from anyone other than Local 562 members into the Union.

Q. And did he tell you why you shouldn't? A. Yes, he told us that if we did, according to the law, that we could have the Government declare that we would have to take anybody that we accepted money from into the Union.

Q. All right, sir. So you decided then not to take [1,854] anything, no assessment at all against the out-of-towners? A. That's correct.

Q. Now, then, in January of 1963 what did the out-of-towners begin to pay into the Fund? A. You've got the chart right there.

Q. One on the right? A. I believe they voted on it at that time to increase it to \$2.00 a day.

Q. Talking about January 1 of '63?

The Court: Hold it up so he can see it.

A. January 1 of '63 we went to a dollar fifty cents a day.

Q. A dollar fifty cents a day for the out-of-towners?

A. That's correct.

Q. That is the same amount that you had previously decided to assess them? A. Well, it would have been on a percentage basis but it would have came out fairly close.

Q. All right. The next thing that you did, as I recall from your testimony, is that you, instead of getting a dollar and fifty cents a day as assessment from your own members, you placed that at what rate? That is— A. One dollar per day.

Q. But that didn't— [1,855] A. You're talking about the Voluntary Fund now?

Q. No, I'm talking about the regular assessment. A. It stayed at fifty cents per day.

Q. Fifty cents per day? A. That's right.

Q. Until you got the strike settled and the checkoff system began? A. Began on October the 14th, but prior to that we didn't know when we would get the the checkoff because we anticipated putting it in immediately when it was voted on by the membership on December 12.

Q. Yes, sir, so for a period of time here, from January 1, '63 until October the 1st of '63, the out-of-towners were paying a dollar and a half total and your members were paying fifty cents? A. Well, by that time, though—that is 1963 now?

Q. Yes. A. By that time we had gone to the voluntary contributions and at that point they were contributing it to the Voluntary Fund, the \$2.00 per day, or dollar fifty cents per day.

Q. Now, the amount of money that wound up in the latter part of 1963 from the out-of-towners and from the regular members totaled exactly the same thing, didn't it? A. It would have been fairly close, yes, sir.

[1,856] Q. Now, then, it continued at that rate until January 1 of 1966? A. That's right.

Q. And at that time the amount that you got from the out-of-towners, total amount, and the amount you got from your regular members continued at the same rate? A. In 1966?

Q. Yes. January 1, 1966. A. January 1, 1966, the assessments were raised to three and three-quarters per cent, I believe, at that time.

Q. But — A. That is on Local 562 members only.

Q. So the increase there was from a dollar to a dollar and a half for assessments? A. Well, depending again on where they were working, yes, sir.

Q. But it could vary a few pennies? A. By that time it was on a percentage basis and it would have been a percentage of whatever their gross pay would have been at that time, in whatever zone they were working in.

Q. And at the same time their contributions were decreased fifty cents? A. Yes, sir, it was voted on at a Voluntary Fund meeting to decrease it.

[1,857] Q. So, that they continued to pay \$2.00 a day? A. Yes, sir, the contributions are still \$2.00 a day, it never changed.

Q. And this is the same amount that the out-of-towners have paid consistently since October 15, '63? A. Yes, that is the one I mean had never changed. The assessments to our members have changed because the percentage would be on gross pay depending on the wage scale. It would necessarily go up.

Q. Yes, sir. Now, sir, had your original plan, the one that you developed in November of 1962, gone into effect,

that is, the one where the assessment was 4 per cent and all come into the Union, had that gone into effect, how would the total monies received and paid by out-of-town-ers and in-town-ers compare with what it actually amounted to in practice? A. I would say if that had gone into effect the so-called out-of-town-ers would have been paying considerably more than what they're paying right now, the \$2.00 a day, because everybody would have been on a percentage basis then. If that had continued on to this time, the \$2.00 would have been considerably more for out-of-town-ers than it is right now.

Q. How much more for out-of-town-ers? A. Well, you'll have to take the chart there. It's marked off there now.

[1,858] Q. Well, this figure here for out of town-ers would have gone up over \$2.00 a day? A. Yes, sir.

Q. Because of wage increases? A. That's correct, and everything being on a percentage basis, it would have been risen.

Q. And this figure right here, on regular assessments, would have gone up? A. Yes, it would have gone up proportionately all the way through here.

Q. So this line would have been exactly parallel for the line that appears here for out-of-town-ers because of wage increase? A. Well, there would have been no distinction of out-of-town-ers or in-town-ers. They would have been all the same. Any employee working in our jurisdiction would have paid identically the same amount..

Q. But if this increased above \$2.00, went to \$2.10, on the same date, the line over here would have gone up the same percentage, wouldn't it? A. Yes, sir, because there would have been no difference.

Q. Yes, sir. A. Everybody would have been the same.

Q. And that is what you had in mind in November and [1,859] December of '62, isn't it, that everybody that worked on your jobs would pay the same amount of

money? A. We had that in mind in November of 1962 until Harry told us that we couldn't do it, that even though the Teamsters proved to the court they could do it, we could not do it, he didn't advise it.

Q. Now, sir, when the monies were received and when they came in to both funds, I am wondering if you know how the money that was spent, that came into the so-called Voluntary Fund, do you know how it was spent, for what purposes? A. For exactly what the authorization called for, would be political, legislative, charitable.

Q. Yes, sir. Sir, can you see this exhibit? A. I can see the exhibit but I couldn't make out those figures. I've been welding for too many years. You'll have to get it up a little closer.

Q. Well, with reference to your accountant's report on the use of the money, I call your attention to the civic and charitable contributions which total \$106,000, and based upon your By-Laws and Constitution, do you know of any reason why any of these expenditures could not have been paid out of your regular dues, out of your regular money, the money that your Secretary-Treasurer writes checks on? A. Yes, sir, I do.

[1,860] Q. Some of these? A. Some of those could have been paid out. The way the Taft-Hartley and Landrum-Griffith Laws are set up at the present time, Harry said we could not participate on a national level without a risk of having some problems. That was the reason he wanted to go to the Voluntary Fund.

Q. I'm talking about civic and charitable contributions paid out of this Fund, for hospitals. I'm not talking about any of these other columns. I'm just talking about the civic and charitable contributions. A. Certainly some of those could have been paid out of there and the Union, if you check the Union's records, and you do have the Union's records, you will find the Union has contributed to hospitals and various charities.

Q. And the contributions were for the same purposes that appear in this column? A. For those two items, yes, sir, charitable and various other activities that the Union is permitted to participate in, they have and will probably continue to participate in.

Q. Much as the Fund did for these \$106,000? A. Well, I don't know what scale it would participate in but the Union does contribute to charity and many other things that they are permitted to contribute to.

Q. Now, sir, this aid to members, \$10,106.34, do you [1,861] know what part of that was used to pay people or members for strike benefits? A. I don't think anything was paid for strike benefits out of that Fund because I don't believe it would be permitted the way its set up. It would have been for some charitable——

Q. Are you saying you don't know what this Aid to Members column was for? A. I don't know what it was used for but I do know members received aid during the period of time that we were on strike, but not as a strike benefit, no, sir.

Q. Well, now, is there any reason why money that went for the aid of members could not have been paid out of your regular Union funds? A. It was possible but there was no strike benefits set up by the Union.

Q. My question, sir, do you know of any reason, you are acquainted with the By-Laws and Constitution, why monies paid to aid to members could not have been paid out—— A. Yes, sir, they could have been paid as aid. It would have to be definitely stated to be strike benefits and we paid those strike benefits.

Q. And if your auditor said these were strike benefits you differ with him? A. I certainly do.

[1,862] Q. Calling your attention to the column over here, Recreation Center, are you familiar with that project? A. You're referring to the one in Clarksville?

Q. Yes. A. Yes, sir.

Q. Sir, do you know of any reason why funds that went into that project could not have been paid out of the regular money into the Union treasury, from the Union treasury? A. Yes, sir, because it could very well be at some of the facilities that would be installed there and have been installed that there could very well be candidates who would be on a national level, such as senators, congressmen, could very well have been attending a political gathering there and it was much better to have it set up entirely separate from the Union.

Q. As a Political Fund? A. It would have been paid out of the Political Fund. It wasn't the Political Fund. The Political Fund would have been in a position to build such a facility.

Q. Sir, do you know why it was that a corporation, a separate corporation, was set up to receive the funds and money that built the Recreation Center? A. No, sir, I don't.

Q. Did you know that a separate corporation was set up? [1,863] A. Yes, sir, I knew that there was a separate corporation set up.

Q. And, sir, do you know whether or not there is anything in your Constitution and By-Laws that prohibits your Union from its regular funds from setting up such a recreation center by the use of a separate corporation? A. We have a recreation—two recreation centers being developed right now that were handled through the Union, retirement, recreation, convalescent, we have got two very big projects we're working on right now.

Q. Just the same as this? A. No, it wouldn't be identical to that because like I told you before, could very well be, going to get a lot of political activity, and it was better to set that aside strictly for political activity.

Q. Sir, were you in on the decision to set this aside for political activity? A. No, sir, that was a decision made by the Director of the Voluntary Fund.

Q. Sir, with respect to these administrative costs that your accountant talked about, can you imagine any administrative costs for handling Union affairs that couldn't be paid out of the Union funds? A. Couldn't pay the Union funds if we're going to have [1,864] a political organization. It would be impossible to pay the salaries for the administration of a political activity out of the Union funds.

Q. Are you talking about anything other than salaries for a person who is engaged in politics? A. No.

Q. Anything else, any other expenses that you can think of? A. I would say any administration costs that would be incurred in handling that Voluntary Political, Educational, Welfare and Defense Fund, any administrative costs should be confined directly to the Fund itself. It should have nothing to do with the Union funds at all.

Q. Now, sir, this column Political, do you know any reason why the political monies couldn't be paid out of the regular Union dues? A. I certainly do. There again we would be prohibited by both the—I am sure the Taft-Hartley Act and the Landrum-Griffith Act from contributing to candidate on a national level.

Q. This is the only column of the totals that in your opinion would be illegal, the Political column? A. Well, Mr. Riddle, I'm no attorney, I don't know whether it would be illegal or not. I do know that we were not [1,865] going to take a chance of having any discussion of whether they were legal or illegal. We just didn't do it.

Q. Sir, at the time that you talked to Mr. Craig, in order to make it entirely clear for the record and for the Court and jury, will you tell us on how many occasions you talked to him? A. I don't really know. We talked to

him—he's been retained by the Union, I guess, twenty some-odd years, and many times we would have discussions with him two or three times a week.

Q. All right, sir. A. And I have no idea how many times we talked to him.

Q. All right, sir, let me be more specific in my question. How many times have you talked to him and sought his advice about the creation of this so-called Voluntary Political Fund? A. I would say several. I don't really know how many. We have discussed this, he was worried, he got us worried.

Q. Sir, if you would just answer the question.

The Court: Just answer the question.

A. I don't honestly know, Your Honor, how many times.

The Court: Well, the question was how many times you talked to Craig about the Voluntary Fund.

Wasn't that the question?

Mr. Riddle: That is correct, Your Honor.

[1,866] A. I would say several times. I don't know specifically.

The Court: How many do you mean by "several"?

The Witness: I would say more than one. Could be as many as four or five times.

Q. (By Mr. Riddle) All right, do you remember the first time you talked to him about it? A. Yes, it was right about the time the Executive Board decided that they wished to do something to put this on a more sound business-like basis.

Q. This would have been in November or December of 1962? A. Well, it would have been in probably November, more so, because December we had already made our decision what to do, so it would have been in the area of November.

Q. All right. Now, then, will you tell us specifically what advice Mr. Craig gave you at that time? A. Now, can we take this in two steps, because that's how we got into this thing?

Q. No, just tell us what Mr. Craig's advice was to you at that time. A. All right. At the first meeting that we had we had told them, that we were——

Q. No, no, what advice he gave you. A. Well, I can't give you the advice until I tell you what I—what we had asked him to do.

[1,867] Q. Sir, the question is, what is relevant here, if you would, please, just state what advice he gave you? A. Well, I'll try to answer it but I'll have to answer it this way: We wanted to go——

Q. No, just a minute, please.

The Court: You asked for conversation with your lawyer.

The Witness: Yes, sir.

The Court: After you had the conversation with him he gave you some advice. Just tell what advice he gave you.

The Witness: Well, Your Honor, that is two steps. Shall I go all through it? We wanted to go to the 4 per cent.

The Court: I know you testified to all that. Just answer that question. You talked to him and then he asked you—he gave you some advice. Now, answer the question by telling—— A. Let's take the first November meeting that we had of the Executive Board.

Q. (By Mr. Riddle) All right. A. We had sought his advice on setting up the 4 per cent.

Q. Just a minute, please, sir. Just state what advice he gave you, about whatever the subject matter was. A. The first advice he gave us, that we could set it up be-

cause he had been involved in the Teamsters. He said it [1,868] looked fine to him.

Q. All right, now, sir, now, then, he said you could set it up. What were you talking about, set up what? A. Well, that's what I was getting to. We wanted to set up the 4 percent, checkoff system.

Q. All right, sir, and is that the only advice he gave you then, that that would be all right? A. Well, we discussed other things but that was mainly what the advice was, that he thought at the time it would be permissible.

Q. All right. So that's the first time. A. Yes, sir.

Q. Then did you talk to him again shortly thereafter and seek his advice further? A. We did. I believe he called us shortly thereafter.

Q. All right. Who did he talk to when he called? A. Myself and Mr. Lawler.

Q. Both of you on the phone? A. I don't know whether we were on jointly, but we could have been because we have a joint system in there.

Q. Sir, is it your testimony that you heard him talk to him on the phone, knew it was his voice? A. Yes, sir.

Q. All right, sir, what did he tell you on the telephone? [1,869] A. He told "Eddy"—he said, "Eddy"—

Q. He told who? A. Me.

Q. All right. A. He said, "I've given this a lot of thought and I would like to discuss this further." He said, "My partner and I, Jack Wiley, are of the opinion that you shouldn't do it the way I had originally advised you."

Q. That is on the 4 per cent assessment across the board? A. That is on the 4 per cent, although he said, "I think it's all right. I would not advise you to do it that way." Then he went on to tell us why.

Q. All right. Number one, he said, "Don't do it that way." All right, and then he told you why. Now, what were his reasons? A. All right. He said, "Number one, if you take assessments from other than members of Local 562, I'm very much afraid that you could possibly destroy your union because you're going to have times when you're going to be in a construction boom and you would have people in here from all over the country and could very well be that the Government would force you to take all these people in as members."

Q. All right, sir. A. "And it would very much endanger the welfare and the [1,870] livelihood of your older members."

Q. All right, sir. That is the advice he gave you with respect to the out-of-towners? A. As far as the assessment was concerned, yes, sir.

Q. All right. What else did he tell you if anything? A. He said, "I would further recommend that we, even with the political, that we set that completely separate from the Union."

Q. The political separate? A. From the Voluntary Fund.

Q. All right. A. Which would be the other branch, legislative, charitable.

Q. All right. He said, "Set it separate from the Union?" A. He said he thought it would be much better to do that completely separately and put that on a voluntary basis.

Q. He said to set it separately and to put it on a voluntary basis? A. That's right.

Q. All right, sir. What else did he tell you? A. He said we should go further and have authorization cards printed and do not accept any contributions from anyone who does not sign an authorization card.

Q. All right. Next he said to have authorization cards [1,871] printed? A. Yes, sir.

Q. And not to accept contributions unless someone had signed them? A. Indicating that it was strictly voluntary on their part, yes, sir.

Q. What else did he tell you, if anything? A. I don't know whether he mentioned drafting the correct wording or not at that time but he eventually drafted the wording that appears on the card. He might have discussed getting the card together or something like that at the time but he said, "We'll have to get together and get this card,"—

Q. Let's forget about the drafting of the card right now. Is there any other advice that he gave you on this occasion? A. Yes, I believe he mentioned about the travel cards.

Q. All right. What did he tell you about the travel cards? A. He said, "Under those circumstances should you change from the policy that the Union has been following for years," he says, "don't accept any travel cards."

Q. Don't accept any travel cards? A. That's right, which had been the policy for years anyway. I don't remember anybody ever having a travel card.

[1,872] Q. In your Union? A. That's right.

Q. Did he tell you why not to accept travel cards? A. There again he says, "Even though your Constitution may have certain sections in there pertaining to that," he says, "according to the law," he says, "within thirty days, if the Government so desired, they could force anybody with a travel card into the Union."

Q. All right, sir. So you would knock out the travel cards? A. Well, we never knocked it out because we never had it anyway.

Q. His advice to you was if you kept the travel cards out then you wouldn't run into any difficulty with the Government or some portion of the Government? A. Well, he said, "There's a possibility with our Union security laws in the contract that within thirty days the people would have to be admitted into the Union."

Q. All right, sir. Now, then, did he give you any other advice on that occasion? A. I don't recall any at that time.

Q. All right, sir. Now, what is the next time that you talked to him and received his counsel or advice, if you did? A. Oh, it might have been prior to the December the 12th [1,873] meeting because we had to get together and he had to—I believe he even drafted the letter, if I'm not mistaken, that we sent out to the members notifying them of the December the 12th meeting, which pertained to the voting on the two and a half per cent assessment.

Q. I'm not talking about what he may have done, I'm asking you what advice he gave you, additionally, or in addition to what you have just testified to? A. Well, that would be about it.

Q. All right. Did I understand your testimony is he drafted a letter for you, as you recall? A. As I recall he drafted that letter, yes, sir.

Q. And he drafted this Voluntary card? A. That's correct, and also the authorization card that we use now in the Union on the checkoff. Everybody has to sign an authorization card for his employer before the employer is permitted to deduct anything from his pay.

Q. So he drafted those two cards? A. Yes, sir.

Q. Now, then, did he give you any other advice at all with respect to this matter? A. I don't know. This could have been a continuing thing because we went right from there and we got into negotiations—

[1,874] Q. No, my question, sir, is with respect to this matter, with respect to the establishment of the so-called Voluntary Political Fund, whether or not he gave you any other advice? A. I don't recall any right now.

Q. Well, I would like for you to be very certain about that. If there is—— A. Well, it's pretty hard to be certain, because we, like I say, he's been our attorney for twenty some-odd years and we could have discussed it even as part of discussions about other things, because we were trying to get the checkoff then in after the December the 12th meeting. The Business Manager was meeting with the Mechanical Contractors Association and he was unable to get it in at that time, and it became a bargaining issue in June. In fact, we had to go on strike over that and several economic issues in the contract, but he had the meeting, and we could very well have discussed many things with Harry Craig.

Q. But about this particular subject matter do you recall any additional advice? A. I can't recall it right now.

Q. Are you reasonably certain that there was none that you acted upon? A. No, I wouldn't be certain though, but I can't recall it right now.

[1,875] Q. With respect to the Chesebrough-Pond construction job over in Jefferson City, are you familiar with that project? A. A little, yes, sir.

Q. Did you participate any in it? A. No, sir.

Q. Were you ever over at Jefferson City? A. Oh, yes, sir.

Q. Did you ever meet with the business manager of that local over there? A. Yes, sir.

Q. Is he also the president of that local? A. I don't know what his position is with the Union.

Q. What was the subject matter or the reason for you to meet with him? A. It was a discussion about welfare benefits, I believe. In fact, they had their wives, we went

up there to have dinner with them, and we discussed the welfare provisions and that, because we have had a number of their—it's Local 279—people working in our area for a long time, and they were becoming eligible for benefits.

Q. Yes, sir, but what I'm asking you to tell the Court and jury is, what was the discussion about? You said welfare benefits. What else if anything? A. I don't recall anything at that—it was at Ramada [1,876] Inn, as I recall it.

Q. Who else was there besides you and he? A. Oh, like I said, it was the membership and their wives from Local 279.

Q. Who was there with you from Local 562? A. Ed Henry, the Director of the Welfare Fund.

Q. Who else? A. Mr. Lawler, business manager, I believe, was there.

Q. Who else? A. I believe Virgil Walsh, the business representative who has the area up through there, member of Local 562.

Q. Who else? A. Sam Latta from Local 581, business manager, 581.

Q. No, I'm talking from your local now. A. Oh, well, these were all at the head table there.

Q. All right. Was Mr. Callanan there? A. Yes, I believe he was.

Q. All right. Now, was a discussion had at that meeting, on the day of this meeting, between you and your counterparts, that is, you and Mr. Lawler, Mr. Callanan, Mr. Henry and the others, about the working conditions on the job there at Chesebrough-Pond? A. No, I had no discussion with the Chesebrough-Pond job as to working conditions.

[1,877] Q. Did you have a discussion with them, or was a discussion had in your presence by other members of

your local and representatives of that local about the payment of \$2.00 a day? A. Not to—

Q. Into your Fund? A. I don't recall in my presence ever having any discussion there.

Q. Well, did you become aware of an understanding or an agreement that the two dollar a day would not be paid by the Jefferson City members? A. Yes, sir.

Q. Working on that job? A. I recall it.

Q. You became aware of that? A. Yes, sir.

Q. Who told you that? A. Either the business representative who had the area, Virgil Walsh; or the business manager, Mr. Lawler.

Q. Either Mr. Walsh or Mr. Lawler told you that? A. That's right.

Q. At this time who was Director of the so-called Voluntary Political Fund? A. What was the date?

[1,878] Q. I believe that was in 1962, as I recall the testimony. A. Not 1966. Mr. Callanan would have been the Director of the Voluntary Fund in 1966.

Q. Would Mr. Lawler have had any position with the Voluntary Fund at that time? A. At that time; no, sir. he would have been the business manager of the local.

Q. Did Mr. Lawler tell you that he had made the agreement that the Jefferson City people would not pay into this Fund? A. He didn't say that he had made the agreement.

Q. All right. What did he tell you? A. I don't recall it word for word but it's possible that he said—

Q. No, I'm not asking what is possible. I want you to tell the Court and jury to the best of your recollection what he told you about the agreement. A. I believe the only discussion we had was the Jefferson City local would not contribute anything into our Fund.

Q. For that job? A. For that job.

Q. All right. Were you told why? A. Well, I recall—

[1,879] Q. No, what you were told. A. No.

Q. You weren't told why? A. No.

Q. Do you know why? A. Well, it will take a little explanation because they also wanted the welfare and pension benefits and everything to stay into Local 279.

Q. Yes, sir. And at that time we had some problems even over the jurisdiction of that particular job, and it was all straightened out by our General President that Local 562 would retain its jurisdiction over comparable work of which Chesebrough-Pond was that type of a job and—

Q. And as a part of the understanding agreement that the two dollar per day per man over there would not be collected, wasn't that a part of the agreement? A. That was the only part of the agreement that anyone could make because the welfare and pension—all the fringe benefits that belonged to any employee has got to go into the Welfare Fund. There's no way anyone can waive that.

Q. Yes, sir, but there was a way for you to waive the two dollar a day? A. It was possible to discuss that and reach an agreement, [1,880] yes, sir.

Q. And it was possible for representatives of your Union to waive that, wasn't it? A. No, sir. I don't think it was any possibility as members of the Union to do it.

Q. Well, who did do it? A. It's possible that the Director might have waived that. I wasn't at the meeting, Mr. Riddle, as I told you. I got this secondhand.

Mr. Riddle: Yes, sir.

Just one second, Your Honor.

Sir, to your knowledge, have you received any advice from any lawyer other than Mr. Harry Craig about the so-called Voluntary Political Fund? A. No, sir, I don't

think so. I could have—no, I believe Harry Craig would have been the only one that we have discussed it with.

Q. The only one, all right, sir. You are quite sure about that? A. Well, to the best of my recollection. I don't recall talking to anyone other than Harry about it.

Q. Sir, you testified something about other funds that you have, the Welfare Fund, the Pension Fund. A. Yes, sir.

[1,881] Q. Those are all under the control of the Union? A. They are under control of the Union only insofar as the Union negotiates the amounts that will be set aside for welfare benefits. As far as the control of the—and administering of the Welfare and Pension Fund, that is done by trustees who have appointed an administrator to handle that.

Q. Sir, in the past few years since this Fund was created in January of 1963, as president of the Union, have you had occasion to collect or pick up money for this Fund? A. Yes, sir.

Q. Often? A. Quite often, yes, sir. You say "collect," I didn't do any collecting. I picked up contributions, brought them in, received them sometimes at the office, many times I accepted them.

Q. As a part of your responsibility as president of the Union? A. No, sir, had nothing to do with my responsibility as president.

Q. Sir, since the adoption of this plan or this Voluntary Political Fund, and the checkoff system, would you compare the chiseling that is taking place now with what it was in 1962?

Mr. Daly: I would object to that as assuming something [1,882] not in evidence, also being argumentative.

Mr. Riddle: It is in evidence, Your Honor.

The Court: He may answer.

A. I have no way of knowing. I mean that would be impossible for me. I would say that with the checkoff system it's very unlikely that anyone wouldn't be paying his dues and assessments because it is on a mandatory basis. The employers themselves check it off each week, just like Social Security or income tax.

Q. So there is no chiseling there? A. Not any more than there would be on that income tax, if that employer makes the mistake, that would be the only way.

Q. Now, what about Anheuser-Busch, where there is no checkoff system? A. Well, that's a separate contract down there, now, that we negotiated directly with Anheuser-Busch, and there is no checkoff system with anyone down there.

Q. Are you familiar with how the collections are made there? A. I believe the steward probably handles that on the job.

Q. And that is the steward that handles that is also handling the collections into the Voluntary Fund? A. He's handling the contributions, yes, sir.

[1,883] Q. He handles all monies that comes in from members out there? A. Yes, I believe he receives it and brings it in.

Q. Have you seen the books he used, one for one fund and one for the other? A. No, sir.

Q. You have never seen them? A. No, sir.

Q. Do you know if his collection is pretty thorough in both instances? A. I would hope that it would be. I mean—

Q. That is collections into the funds, his collection for dues was pretty complete, a hundred per cent? A. I sure hope so.

Q. Well, you have never looked at his records to see? A. No, but you're talking about—I would assume if any-

body is going to take care of a job like that, it's a responsible position and I would imagine that he would do a good job.

Q. Collect all that was coming? A. Well, he would collect the contributions as they were given to him, but he would make sure that he collected the dues and assessments, yes, sir, because that would be mandatory.

Q. Do you know if he works any harder at one than he [1,884] does the other? A. I don't know. That's a question you will have to ask him. I don't know how hard he works.

Mr. Riddle: We have nothing further, Your Honor.

Mr. Randall: No redirect, Your Honor.

The Court: All right, step down.

(Witness excused.)

The Court: Will you look at II?

Mr. Riddle: Yes.

The Court: Call your next witness.

Mr. Randall: Mr. Harry Craig.

HARRY CRAIG,

being first duly sworn, testified in behalf of the defendants as follows:

Direct Examination.

By Mr. Randall:

Q. Mr. Craig, would you state your full name, please, sir? A. Harry H. Craig.

Q. Where do you live? A. I live at 4466 West Pine in the City of St. Louis.

Q. What is your occupation or profession? A. I am a lawyer.

Q. Where do you maintain your offices, sir? A. In the Buder Building on Seventh and Market Street.

[1,885] Q. Do you have a firm there? A. I do.

Q. What is the title of the firm? A. Wiley, Craig, Armbruster & Wilburn.

Q. And, sir, do you specialize in any particular area of the law? A. Yes, sir.

Q. And what area is that, sir? A. Labor law.

Q. And how long have you specialized in labor law? A. Oh, for at least twenty years.

Q. Mr. Craig, do you represent unions in this area? A. Yes, sir, I represent only unions, no employers.

Q. What are some of the unions you represent? A. Well, I represent Pipefitters Local Union No. 562; I represent Pipefitters Local Union No. 318 with headquarters in Cape Girardeau, Missouri; I represent Pipefitters Local Union No. 581 with headquarters in Hannibal, Missouri; I represent approximately sixty or seventy local unions affiliated with the International Brotherhood of Teamsters, and I represent the St. Louis Joint Council of Teamsters, which is a subordinate body of the International Union, having, oh, twenty-two or twenty-three local unions as affiliates.

I represent the Missouri-Kansas Conference of [1,886] Teamsters, with which all of the Teamster unions in Missouri and Kansas are affiliated. I represent the Illinois Conference of Teamsters with which there is affiliated virtually all of the Teamster unions in the State of Illinois outside of Cook County, or areas north of that county. I represent Local 513 of International Union of Operating Engineers. I represent the Upholsterers Unions. I represent Building Service Employees Union, and there are many that I haven't mentioned.

Q. All right, Mr. Craig, how long have you represented Pipefitters Local 562? A. For approximately twenty years.

Q. Have you been on a monthly retainer basis for twenty years with them, sir? A. For eighteen years I have been on a monthly retainer basis.

Q. Now, Mr. Craig, when did the provisions of Section 610 of Title 18 first come to your attention as an attorney?

A. When Congress passed the Labor-Management Relations Act of 1947, over the veto of President Truman.

Q. What is the popular name of that Act? A. The Taft-Hartley Act.

Q. And was this 610 a part of that Act? A. Yes, in the Taft-Hartley Act it is designated as Section 304, I believe.

[1,887] Q. Now, sir, did you advise any of these unions that you represented with respect to the matter of political contribution in federal elections in connection with this statute?

Mr. Riddle: Just a minute. I object to that as being completely immaterial, advice he has given to other people.

The Court: Be sustained.

Q. (By Mr. Riddle) Mr. Craig, if I might come down to November of 1962, were you then representing Pipefitters Local 562? A. Yes, sir.

Q. And specifically what were you consulting with them about at that time, sir? A. In November of 1962, among other things, I was consulting with them concerning the establishment, maintenance and administration of a fund, the proceeds of which could legally be used for political activities, including contributions to candidates for federal offices and expenditures on their behalf.

Q. Was their contract coming to a close at that time or near that time, sir? A. Yes, it was getting close to the

time when negotiations for a new collective bargaining agreement would begin.

[1,888] Q. Before we get into that, Mr. Craig, I will hand you what has been marked as 562's Exhibit GG, which is the Constitution and By-Laws of Local 562, and ask you who wrote that document? A. I did.

Q. When did you write that, sir? A. It was sometime prior to November of 1960, probably I completed the drafting of it within two or three months prior to November of that year.

Q. Was there some occurrence that caused the necessity for writing the By-Laws and Constitution of the law? A. Yes, sir.

Q. What was that? A. The passage of the Landrum-Griffith Act in 1959, the first sentence of Title 2 of which provides specifically that every labor union must adopt a constitution and by-laws.

Q. And had 562 had a constitution and by-laws prior to that time? A. Yes, sir.

Q. Did all the unions that you represented have a constitution and by-laws at that time? A. Practically all of them.

Q. Now, does that act also contain certain specific provisions that must be incorporated in the by-laws and [1,889] constitution? A. Yes, sir.

Q. Now, coming down to November, when you were considering a new contract and consulting with 562, sir, did you have a meeting in the early part of November at some point with any of the officers or employees of Local 562? A. I did.

Q. Do you recall where that meeting occurred? A. Yes. It occurred at the offices of the Union on Pierce Avenue off of Hampton. I think it's 1242 Pierce Avenue.

Q. Do you recall who was present? A. Yes, Eddy Steska, the president of the Union, John Doc Lawler, the

business manager of the Union, John Burke, the secretary-treasurer of the Union, possibly George Seaton was there. I'm not certain about that.

Q. Was Mr. Callanan there? A. No, sir.

Q. Now, would you tell us what was said and by whom at this meeting?

Mr. Riddle: Just a minute. We object to that, Your Honor. This is far too broad a question. It calls for hearsay. I think the question should be limited to what advice he gave. All conversations that occurred other than that would be immaterial and hearsay and self-serving.

[1,890] The Court: Well, the other statements by other people present, I think would be hearsay, Mr. Randall.

Mr. Randall: Well, they're all parties to the case.

The Court: I know.

Mr. Randall: Except Mr. Burke, I believe.

All right, sir, will you tell us then what advice you gave these people with respect to this question of assessments and checkoffs and dues and that sort of thing?

A. I told them that if it was their desire and intention to establish a separate fund, which could be used for political purposes, that they could do so. I told them that they could choose between several different types of funds. I told them that they could, for example, follow the type of fund and the formula which I had previously set up for the Teamsters Union, or they could use a different system or a different formula for maintaining and administering such fund.

I told them in response to a request that the Teamsters fund, if they desired to use it, would be in my opinion a good one to use, because I was thoroughly familiar with the setting up of it, had set it up, and that it had the advantage of having been tested legally in the federal

courts and found by this court through the opinion of the late Judge Moore of this court to be permissible and legal.

In response to a request I outlined in detail the [1,891] manner in which the funds of the Teamsters had been set up and the manner in which it was operated. I told them that before they made a choice that they must understand the manner in which the Teamster fund had been set up by me and what it entailed in the way of detailed operations.

I told them that in the operational structure of the Teamsters, that contrary to the past policy of the Pipefitters, all dues from members, that is the monthly periodic dues of the labor organization, were checked off. I said to them that I knew that they were aware of what checkoff meant, but I wanted them to understand specifically with reference to this kind of operation just how checkoff had to be arranged for and how it had to work in practice.

I told them that in the Teamsters' setup the first step necessarily would have to be negotiating a new contract with employers, which contract would provide that the employers would deduct from the gross wages of each employee the monthly periodic dues of the union, and that the employer would remit the amounts deducted or checked off direct to the union, that this would have to be written into a collective bargaining agreement in order to be legal.

It would also require for its legality a card signed by each employee authorizing his employer to check dues off and send them along to the union.

[1,892] I told them that this would be one of the steps, if a checkoff system were to be adopted.

I then told them that following the negotiation of such a labor agreement, and the establishment of such a checkoff system, that the program of the Teamsters further required that each member, who was willing to do so, would have to sign another card. This card would say in effect that the member individually authorized

and directed his local union upon receipt of money checked off by employers to set aside a certain portion or amount of the total dues checked off, which amount was to be set up in a separate fund, and which amount in the separate fund was to be used exclusively for political activities which could include and did include contributions to candidates for federal office and expenditures on behalf of their campaign.

I told them that upon receipt of money checked off by employers under a labor contract that no portion of that, because that amount represented the dues structure of the union, no portion of that could be set aside and used for political activities of this nature unless individual employees signed a card authorizing and directing the union to do that, and that only the amounts represented by the individual authorizations could become a part of this separate fund to be used for political activities.

[1,893] I also told them that in the Teamsters' plan, or in any other plan that they would choose to adopt that it was absolutely essential that any money received under any authorization from any employee must be money which is not made either a condition of obtaining employment or a condition of retaining employment or a condition of union membership.

I instructed them that under no circumstances could any requisite payments made first in the nature of dues, a portion of which is later set aside under authorization, none of that money could be used if a condition of employment or continued employment or union membership depended on it.

I told them that under that system, bearing in mind that initially the collective bargaining agreement required employers to check off the periodic dues of the union, and that the dues, when received under a proper authorization card, would partially go into a separate fund, that this sort of a program would have to be care-

fully followed and if set up must be followed from beginning to end under that sort of a formula.

I told them that there were other and different forms of programs which they could legally use and we discussed a few of them. I told them, to give them an example, that if they did not wish to follow the same sort of program adopted by the Teamsters, that instead of that their organization could merely collect the monthly periodic dues and the monthly [1,894] periodic assessments of the Pipefitter Local Union, and just let that stand alone, going into the Union and the general funds of the Union, and that separately, and as an additional activity, they could solicit contributions from persons who were willing to make them, these contributions to be put into a separate fund.

I explained to them the general manner in which the top international unions, and in particular the American Federation of Labor and Congress of Industrial Unions, had established and maintained the fund which they could legally use for political activities and political purposes; further, that the International Brotherhood of Teamsters had similar and like funds, any of which could be adopted depending upon which one looked best for their organization.

Q. (By Mr. Randall). Now, sir, did you have a further meeting or another meeting with any of these people a few days later? A. I did. I did.

Q. Where was that meeting, sir? A. That meeting, likewise, was in the Union hall, or Union offices on Pierce Avenue.

Q. And how much later was that as best you recall? A. Not more than a day or two later.

Q. And what advice—who was present at that [1,895] meeting? A. The same persons.

Q. And what advice did you give them at that time, sir? A. I advised them that—and this was in response

to their request—I advised them that if, as they told me, they desired to follow the same program used by the Teamsters that we would have to review what I had said before in the way of instructions and that I would have to get busy preparing various documents and papers, including cards, to be used, to be signed by employees, and that it would be necessary for them, before they undertook this sort of a program, to submit the matter to the decision and vote of the membership of their organization.

Q. Did you have any further meetings with them concerning this subject? A. Yes.

Q. And when and where were they? A. The next meeting I had with them was on November the 25th, 1962.

Q. Where was that meeting? A. I am not certain at this time whether that meeting was held in the offices of the Union or in the offices of Morris Shenker.

Q. Who was present at that meeting? [1,896] A. Eddy Steska, John Lawler, and I am not certain whether either Mr. Seaton or Mr. Burke were present at that meeting. I don't believe Mr. Burke was there. I'm reasonably sure he wasn't. But I don't recall whether Mr. Seaton was there.

Q. Was there anyone else there that you can remember? A. Yes. I was there, of course. My law partner, Jack Wiley, and Morris Shenker was there.

Q. Was Mr. Lawler there? A. Yes, he was there.

Q. All right. Now, what advice did you give them at that time, sir? A. I advised them at that time that since our previous discussion and since their previous decision that they would like to follow the same program used by the Teamsters, that when I began preparation of the papers and documents and the outline of the manner in which this would have to be set up and maintained

and administered, that I had reached the conclusion that it would not be well for their union to use the program like the Teamsters'.

I told them that if they used such a program, including in part a checkoff by employers, that the checkoff system would necessarily mean as a matter of law that the Pipefitters Local Union would be compelled, would have to admit [1,897] to membership in their organization any person whose dues were checked off.

I told them that I realized, I knew of their past policy and practice of limiting the number of their members to just that number of people that they believed they could constantly find work for, whether employment was good or whether it was slack. I knew that through the years they had never had a checkoff system. I knew that through the years they had never admitted persons to membership in numbers greater than they thought they could find work for, and I thought in view of the fact that the system used by the Teamsters would mean that they would be compelled as a matter of law to admit anyone to membership whose dues were checked off or even if not checked off, whose dues were paid, as any condition of employment, that they would increase the number of the members in their union beyond what they had always told me they didn't want to do, and I concluded that it would be much better for them from a practical standpoint to forget the program or a type of program used by the Teamsters, and instead of that permit me to draft a different form of program.

I explained to them, I told them that if they would follow the Teamsters' program and if they would decline to admit to membership all whose dues were checked off or dues paid under that kind of a program, that the receipt of the dues; [1,898] coupled with the refusal to admit to membership, would be in conflict with the Taft-Hartley Law.

I then told them that I urged them to adopt a different program and outlined the type of program I thought they should have.

Q. Before telling what you told them with respect to that program, Mr. Craig, did you give them any advice concerning a travel card fee? A. Yes. I told them that if as a condition of employment or a condition of union membership they accept a fee from pipefitters coming from other areas working on the so-called travel card, that if they accepted the travel card fee they would also have to admit those people to membership, and I strongly urged them to decline in the future to accept any travel card fees so that they would not be compelled to admit more members than they wanted.

Q. All right, now, sir, what program did you outline to them at that time? A. I told them that it should be separated into two parts, that, number one, they should proceed with their intention when they negotiated their new labor agreement to incorporate the so-called check-off system into their new agreement, so that after the contract was executed and after the checkoff system was perfected, that the monthly periodic [1,899] dues and the monthly periodic assessments, as spelled out in the constitution of the Local Union, would be deducted by employers from the gross wages of employees and remitted direct to the Union with this exception: that no monthly periodic dues or monthly periodic assessments should be checked off for persons who were not members or were not members of Local 562, and that they should permit me to prepare a letter of instructions to employers which made it plain that the checkoff system applied only to the members of the Local Union and was not to be applied to persons not holding membership.

Q. Did you give them any advice concerning political money? A. Yes, I did.

Q. What was that advice? A. I told them that as a separate activity they should initiate a program which would enable them to solicit from their own members or from anybody else working in this jurisdiction, in the pipefitting trade, to solicit from all of those people contributions into a separate fund which would be used for a variety of purposes.

I told them that they must in soliciting, if they intended to adopt this recommended system, they must permit me to prepare a form of authorization card or agreement to the [1,900] effect that persons working in the industry would sign showing that they were making contributions to this separate function and that the contributions were willingly or voluntarily being made by them.

Q. Now, Mr. Craig, did you subsequent to that prepare such an agreement, or card? A. I did promptly, immediately.

Q. And I hand you what has been marked Local 562 Exhibit B, sir, and I will ask you if that is a copy of the card which you prepared? A. It is.

Q. Now, you said you also prepared a letter going to the employers after the contract was negotiated and so on, so forth, at some point, and I hand you what has been marked Local 562's Exhibit NN, and I will ask you if the second page of that is that letter? A. It is.

Q. And does that letter state that checkoffs shall apply only to members of Local 562? A. It does.

Q. Now, Mr. Craig, does this card, contents of this card, substantially embody your recommendations to Local 562 with respect to this fund? A. Yes, sir, it does.

[1,901] Q. Mr. Craig, I will hand you Government's Exhibit 63, 64, 65, 66, 67 and 68, and I will ask you if you participated in the preparation of those reports to the Labor Department? A. I did.

Q. And did you include the Voluntary Fund in those reports? A. No, sir.

Q. And why did you not do so? A. Because it is neither required nor is it—

Mr. Riddle: I want to object to that as being completely immaterial, Your Honor. This is calling for an opinion of this witness on a matter that is unrelated to the issues in this lawsuit, allowing him to substitute his opinion for what the Court will instruct the jury.

Mr. Randall: Your Honor, the reports are in evidence. The Government has put them in evidence.

The Court: There is no question about their having been put into evidence.

Mr. Riddle: They are.

The Court: However, I think that ultimately the determination for the jury is the very question, and so I will sustain the objection as to that.

Mr. London: May we approach the bench, Your Honor?

(Thereupon the following colloquy ensued among the [1,902] Court and counsel, at the bench, out of the hearing of the jury:)

Mr. Randall: I'd like to make an offer of proof that if the witness had been permitted to answer the question he would have stated the reason he did not include it in the reports was because it was not a fund of Local 562.

Mr. Riddle: To which we object, Your Honor, because that is the issue that is to be decided by this Court in its instructions to the jury.

The Court: I don't think that it's going to be decided by the Court in its instructions to the jury, but I think this is a fact question that must ultimately be decided by the jury. It is not the subject of expert testimony and

would be an invasion of the province of the jury, so if you object to the offer of proof—

Mr. Riddle: Yes, sir, we do, Your Honor.

The Court: Be sustained.

(Thereupon the further following proceedings were had in the presence and hearing of the jury:)

The Court: Members of the Jury, we will have our afternoon recess at this time. Please remember the admonition I have previously given you.

Be about ten minutes.

(Following a brief recess, Harry Craig resumed the [1,903] witness stand for further direct examination as follows:)

Mr. Randall: Your Honor, we again offer II.

Mr. Riddle: We have no objection.

The Court: Be received.

(Whereupon Defendant Union Local 562's Exhibit II was received in evidence.)

Mr. Randall: You may inquire.

Cross-Examination.

By Mr. Riddle:

Q. Mr. Craig, at the outset I would like to ask you this question: Have I discussed with you your testimony in this case heretofore? A. Have you, sir?

Q. Yes. A. No, you have not.

Q. You have been counsel for Local 562 for twenty years? A. Approximately twenty years.

Q. And been on a retainer for them for eighteen? A. Yes, yes, that's right.

Q. By retainer you mean they pay you so much per month or so much per year? A. So much per month.

Q. Does this include you as well as other members of your firm? [1,904] A. Yes, sir, it does.

Q. And Mr. Wiley is one of the members of that firm? A. Yes, sir.

Q. All right, sir. Sir, in connection with the advice that you gave to Mr. Steska, Mr. Lawler and who was the other one, if you did mention another one? A. Well, there was Mr. Lawler, Mr. Steska, Mr. John Burke, who is the secretary-treasurer of the Union, and Mr. George Seaton.

Q. Sir, in your advice to them did your last bit of counseling with respect to this Fund and the handling of it terminate after you had prepared the so-called Voluntary cards? A. No, sir.

Q. Have you given them advice about the Fund thereafter? A. Yes, on many occasions.

Q. Sir, did you give them any advice with respect to the actual physical collection of these funds? A. No, sir, I did not, with this exception, if I may add this: They inquired of me the manner in which these funds must be collected. I told them there were no regulations, there were no prescriptions or proscriptions on the way that they did it. I told them, for example, that these funds could be brought in individually by contributors and given to the Director of the Fund, or they could be solicited and collected [1,905] on the job while men were working by any of the men working on the job, either by rank and file workers or by job stewards or by foremen or by anyone else as far as I was concerned. I instructed them, however, that if persons solicited and collected contributions on the job, and in addition to that collected any money due to the Union in the nature of periodic dues, that those persons, although they could collect both, must turn in the dues to the Union office and turn in the contributions to the office of the Voluntary Fund. I don't recall, Mr. Riddle, any specific instructions other than

that, excepting this, I did fail to mention this. I told them under no circumstances could anyone collecting on the job inform any employee that he must contribute as a condition of employment or continued employment or union membership. I did that.

Q. I see. Sir, did you tell them whether or not it would be appropriate for stewards to refer to these payments as assessments? A. I don't recall ever discussing the word "assessments" with them in conjunction with this Fund.

Q. You never told them that this would be all right for stewards to—— A. I told them that——

Q. No, would you please, sir, answer my question. [1,906] Did you or did you not tell them it would be all right for stewards to refer to these collections as assessments? A. I have no recollection of telling them that.

Q. And you, of course, don't know whether they did or not? A. No, I do not.

Q. I take it that you didn't contemplate that these solicitations would be referred to as assessments? A. I was unconcerned whether they called it assessments, contributions, dobies or whatever they called it, just so long as they were solicited without anyone being told that they had to make a contribution or pay an assessment or anything else as a condition of employment or union membership. I didn't really care what they called them. It didn't make any difference.

Q. Are you telling this Court, sir, that to a union member that a contribution or request for contribution could be called an assessment without misleading that union member? A. Yes, of course. There are many different names given by anyone, pipefitters, to any sort of a payment they might make. I have heard—I have heard pipefitters refer to the monthly periodic dues as a doby.

Q. Yes, sir. What do you understand an assessment to mean, Mr. Craig? [1,907] A. An assessment is a sum of money which is given by one person to another.

Q. Is that your understanding of what an assessment is? A. Yes, sir.

Q. Have you looked it up in the dictionary recently? A. No, I have not.

Q. You have had occasion to think about it in the last several days? A. I have had occasion to think about all aspects of this situation the last several days.

Q. Well, sir, have you ever understood an assessment to mean or to be synonymous with a tax or a right for a membership for a participation in some activity? A. It could be and on the other hand it could not be.

Q. Well, in union parlance are assessments usually and commonly referred to as that which a member pays to his union for the purpose and for the privilege of belonging to that union? A. No, sir.

Q. It is your testimony, sir, that assessments are not usually and normally referred to by members as that which they must pay in order to maintain their membership? A. That is my testimony, sir. They use other words. Most often they use dues.

[1,908] Q. Well, do you consider the words dues and assessments somewhat synonymous? A. Oh, they are synonymous as a matter of law.

Q. Yes. Now, sir, again I would ask you if within the purview of your advice whether or not the calling or denominating of these collections as assessments would be well within your advice? A. Yes, because I was unconcerned what they called it as long as they did it the way I told them to do it and as long as they avoided the things that I told them they had to avoid they could call it a rose by any other name. I didn't care what they called it.

Q. Sir, was it of any concern to you that the members of the Union on the job might consider an assessment in the normal way that union members consider it? A. I don't think I understand your question.

Q. Well, let me put it this way: You say you didn't care what they called it. A. That's right.

Q. Was it of any concern to you as to what the members who were being solicited thought about it, the atmosphere in which the solicitation was made, was that of any concern to you? A. None, because it made no difference as a matter of [1,909] law and as a matter of procedure. I would have no way of knowing what assumptions people reach. I have no way of knowing what people think. My concern is what was said, what was done, and how it was done.

Q. Sir, would it be of any concern to you, speaking of the atmosphere in which these solicitations were made, in your advice to your clients, if the solicitations were made on the morning that a new person reported to the job? A. No, sir.

Q. That wouldn't be of any concern to you as a lawyer? A. No, sir. It would be of no concern to me as a lawyer. I see no difference the first day, the second day. The first day would seem to me to be the logical day to do it.

Q. As a voluntary non-compulsory payment? A. Yes, sir.

Q. Didn't you make it very clear in your opinion that these should not be compulsory in any sense of the word? A. I did not say that, Mr. Riddle. I said that—

Q. Well, in your opinion to them did you not make it clear that in no way should it appear compulsory to the members who were asked to contribute? A. No, sir, I did no such thing. I simply told them that the contributions must not be made a condition of employment or a condition of Union membership and that was the extent of

[1,910] my advice to them on what they must do, what they must not do, and how they should do it.

Q. Mr. Craig, do you recall while representing this same client making certain representations to the United States Department of Labor in Washington, D. C., in which you told them what your advice to these same clients were? A. Yes, sir, I remember that very well.

Q. Let me ask you this, sir: Do you recall telling the representatives of that department that you advised them and that they knew that if they made the funds compulsory they would violate the law, and you used the word "compulsory"? A. That is a part of what I said.

Q. What else did you say? A. But something is left out.

Q. All right, what was left out? A. I said—I used the word "compulsory" limited to a requirement that contributions would govern or that the failure to make contributions would have something to do with employment or union membership. The use of my word "compulsory", when I talked to Frank Kleiler, the head of the Department of Labor, was that as long as the contributions did not require or as long as continued employment or the obtaining of employment or union membership did not depend on making contributions, that it was legal, and the compulsion I referred to was limited [1,911] to those areas.

Q. Sir, in using the word "compulsion" do you say now that that has some relevance in the atmosphere under which these contributions would be solicited? A. No.

Q. It would not? A. It would have no relevance unless you added one more factor, that contributions were required in order to be able to work or in order to get membership in the Union. That was the only area I ever talked about compulsion or voluntary.

Q. You do recall now having talked about compulsory and non-compulsory? A. I don't recall using the word

"compulsory". I recall very clearly and distinctly all of my conversation with Mr. Kleiler in Washington and with the members of his staff.

Q. Sir, do you recall further in representing these clients that they should not make it appear to be compulsory and based upon your advice they used the term "voluntary"? A. I told—Are you speaking of the conference with Mr. Kleiler?

Q. I am talking about your representations to the people in Washington. A. I told Mr. Kleiler and the members of his staff that everything that was done in connection with this plan, including [1,912] the language on the card and the word Voluntary was done upon my directions.

Q. All right, sir. Sir, to go back to the situation I mentioned earlier, do you feel that the atmosphere in which a solicitation is made would have some bearing on whether it is compulsory in the mind of the person being solicited? A. I'm afraid I don't understand what you mean by atmosphere.

Q. Atmosphere. Well, let me hypothesize some atmosphere.

Suppose a person who is without work, with delinquent bills, with a family to support, and looking for a job, and after three months of unemployment shows up on the job, on a 562 job, and within a matter of minutes is presented the so-called Voluntary card. That is the type of atmosphere I am speaking of when we talk about some type of compulsion. A. I do not—

Q. Is that clear now? A. I do not view that as compulsion in any sense of the word. The man could either make the contribution or he could refuse to make the contribution, as he saw fit. His job did not depend upon it. It could not depend upon it. If there were any indication by words or acts that his job depended upon it he would get relief with full back pay from the National

[1,913] Labor Relations Board. So he would not be under compulsion and if by the wildest stretch of the imagination there were such compulsion, he could get relief with back pay.

Q. You think the hypothetical situation I just mentioned to you goes beyond the wildest stretch of imagination, sir? A. I think the outline of the facts appears to me to be quite wild. It just doesn't happen that way.

Q. It doesn't happen that way? A. No, sir.

Q. You haven't had the advantage of hearing the testimony offered in the court, have you? A. I have heard none of the testimony.

Q. Sir, did you give these clients any advice about the use of Union stewards for regular and frequent collection of these non-compulsory contributions? A. Yes, I did.

Q. What did you tell them? A. I told them that they were free to use Union stewards to solicit and receive contributions, they could use the stewards or anyone else they wanted to.

Q. Sir, in your trip to Washington representing these defendants, at the same time that we were talking about before the Department of Labor, do you recall being asked whether or not Union stewards were used to collect these contributions? [1,914] A. I don't recall being asked that question.

Q. Do you recall in response to that question that you said that basically the contributions were paid by individuals and that there may be instances where other men offered to take in the contributions of people they were working with? Do you recall making that response to the question with respect to whether or not stewards were making collections on the job? A. I don't remember such a question being propounded to me and I certainly don't remember giving such an answer to the question I don't remember being propounded. I'm not saying that the

question of stewards soliciting and receiving contributions was not discussed during that meeting. I'm not saying that, but the question that you propounded, I have no recollection of that being propounded to me.

Q. You recall the question arising at this conference of whether or not the stewards were used to collect these funds, and further— A. No, sir, I do not.

Q. You do not? A. No, sir, I do not.

Q. Let me ask you the question slightly different. Do you recall the proposition being raised as to—in connection with the compulsory feature of these contributions? A. Oh, yes, now—

[1,915] Q. As to whether or not the presence of stewards on the jobs regularly and frequently making collections from people working under them would amount to some type of compulsion? Do you remember that discussion arising? A. No. I remember a discussion of stewards and the activities of the stewards, which was a discussion in the context of the question of whether as a condition of employment or union membership contributions had to be made and whether or not stewards had told anybody that they wouldn't be able to work or wouldn't be able to have union membership if they did not contribute. Now, we discussed that.

Q. Well, in that same light was it discussed that stewards or foremen having the prerogative and discretion to assign jobs, harder ones to certain people, easier ones to certain people, the right to recommend layoffs, the right to recommend hiring, people vested with that sort of discretion, if those same people make these so-called voluntary solicitations, if that might amount to compulsion? Do you remember that discussion being raised and stewards used in that connection? A. No, as a matter of fact, neither stewards nor the foremen have any such discretionary rights.

Q. They do not, is that your testimony? A. No, sir, they do not. They do not on construction projects. The general superintendent in charge of the job [1,916] would do that or a construction superintendent assigned to a particular area in a job would make those assignments.

Q. Work assignments? A. Yes.

Q. What function from your understanding does the foreman perform? A. The foreman is a person who is in the nature of a straw boss in the sense that acting under the supervision, direction and control of the superintendent of employment he will receive orders and directions from the superintendent and pass them along to the people working in his crew. Now, the stewards don't even have that sort of a function.

Q. Even though they are both a steward and a foreman or general foreman? A. I never heard of a person being a steward, a foreman or a general foreman at the same time. As a matter of fact—

Q. You have never heard of that? A. No, sir, I have not.

Q. All right, sir, go ahead. Did you have some further response to that question? A. No, I think not. I think that covered it adequately.

Q. Sir, I would ask you further in that context whether you advised these defendants to keep the contributions and the collections entirely separate from the activities of the [1,917] Union? A. I don't think I understand your question.

Q. Well, in advising these defendants how to handle this Fund, whether you told them that the solicitations and the collection of the proceeds of the solicitations should be a separate and distinct activity from the activities of the Union? A. Yes, I told them that in this kind of an instruction, do not take any money listed as a contribution and put it in the treasury of the Union, do not commingle the funds, have a separate facility that

will be used for whatever business or record keeping requirements that are in the separate fund, and have that administered and maintained apart from the general administration of the financial affairs of the Union.

Q. And the suggestion or advice you gave them about separateness and different activities and not commingling, not having them commingled, had reference to commingling of the funds and not the activities, I take it? A. Oh, it included activities.

Q. You included that? A. I just told you that there must be a total separation of the activities of the Union as it relates to membership and employment and labor contracts and the constitution and by-laws of the Local Union, and I explained to them and I instructed them specifically that the thing they had to [1,918] carefully avoid was putting the money into the treasury of the Union, commingling it, it should be in a separate fund, it should be handled as a separate fund; and that the Union as such should not in any way require contributions as a condition of membership or participation in the activities and affairs of the Union or employment.

Q. Sir, did you give them any advice about substituting these contributions for regular income into the Union treasury? A. Your question doesn't ring a bell. Can you ask it in a different way?

Q. All right. Let me ask it in a different way. Did you give them any advice following their initial consultation with you at which they said they wanted to increase their assessments to 4 per cent of the gross? A. Oh—

Q. You remember what I'm talking about? A. I think I know what you're talking about.

Q. All right, sir, talking about that subject, now then, what do you understand— A. When you use the word "assessment," you necessarily are talking about a part of the periodic dues structure of the Local Union. The

dues structure of the Local Union consists of two things. It consists of—

Q. Sir, if you would, answer my question. My question [1,919] was in connection with their desire to make the 4 per cent assessment charge against their members, whether or not you gave them any advice about using a part of that total 4 per cent and having that substitute for contributions rather than regular Union assessments. Did you give them any advice about that? A. Yes.

Q. What did you tell them? A. In response to an inquiry from them concerning their desire and intention to adjust the assessment portion of the periodic dues of the Union, they consulted with me about it, I prepared the notices which would have to be submitted in advance so that the membership could vote on the question at a Union meeting, told them how to do it, and I told them it was all right to do it.

Q. All right, sir. Sir, did they tell you at this meeting what they were driving at was to get a dollar and a half a day from their members? A. I don't remember—

Q. You don't remember that? A. —being told that they were looking for a dollar and a half a day for anything. I do remember being consulted about an adjustment of the assessment portion of the Union dues, yes, I remember that.

[1,920] Q. Did you give them any advice about not using or considering these contributions as being regular Union funds? A. The contributions are not Union funds, regular or irregular. The assessments of which you speak are something entirely different. Those are Union funds. They are a part of the dues structure of the Union. They are two entirely different things.

Q. Well, sir, what are Union dues and proceeds or Union funds used for? A. Union funds are used for all of the objects and purposes which are spelled out in the Constitution and By-Laws of the Local Union.

Q. All right, sir. Do you know whether or not charitable contributions are a part and parcel of the legitimate expenditures of Local 562? A. Yes, they are a part and parcel of the legitimate expenses from the funds of the Union.

Q. And what about recreation centers, are they a part and parcel of the regular and legitimate and proper expenditures of the Union from its regular Union funds?

A. Not Local 562. They have no such thing.

Q. Local 562 has no such thing? A. No, sir, it does not.

Q. No recreation center? [1,921] A. No, sir, it does not. Never did have.

Q. Are you familiar with the farm or the area up around Clarksville? A. Yes, sir, I am.

Q. And you say that is not Local 562's property? A. No, it is not, sir.

Q. Who does it belong to? A. The property in Clarksville is owned in part by the Voluntary Fund and in part by the jointly administered Health & Welfare Trust Fund of the employers who contribute to the Health & Welfare Trust Fund.

Q. Sir, do you know that a part of it up there is owned by Voluntary Fund, Incorporated? A. I don't know whether it is incorporated or not.

Q. What about this Voluntary Fund that you set up, is it incorporated? A. I don't know.

Q. You mean that this machinery, this device that you assisted in setting up— A. I understand you.

Q. You don't know whether that is a corporation or— A. The program that I set up was an unincorporated program.

Q. What was it? Just what type of a legal animal was it? [1,922] A. This is a trust by operation of law. It is a fund which is accumulated as a result of solicitations

for contributions and contributions made by persons to a single individual.

Q. You say its legal denomination would be a trust?

A. Yes.

Q. Is that the type of legal animal it is? A. Oh, it's a trust fund all right.

Q. The person who administers it, I take it from your definition, would be the trustee? A. That is correct, yes.

Q. What did you call him when you set him up? A. I told——

Q. What did you call him when you set him up, when you drafted this Voluntary card, a trustee or director? A. I didn't call him anything.

Q. Well, you prepared this card, didn't you? A. The card?

Q. The card that everybody signed. A. May I see the card, please?

Well, Mr. Riddle, this card doesn't call him anything.

Q. Well, do you know what he was called? A. I really don't, because in my advice to them, in response to their inquiries, I was talking in terms of a single [1,923] person who would be in charge of this Fund. I don't recall giving him a name or title or anything like that. Now, I know that he occupies a fiduciary relationship to the contributors and——

Q. Well, isn't he called a director? Don't you know that as a matter of fact? A. I really don't know whether he's called director, manager, guy in charge, or what. I really never concerned myself with that.

Q. You would consider him a trustee by your concept of the legal animal that was created by your—— A. Oh, there's no doubt that he is a trustee.

Q. Were you asked advice as to what the trustee's responsibility was for handling these funds? A. The word

"trustee" wasn't used, but I certainly did advise everyone concerning the responsibilities that they would have or anyone would have in using these funds or any portion of them.

Q. You gave them advice as to what they could use them for and how? A. I did, sir.

Q. Did you give them any advice about whether or not they should ever account for their expenditure? A. I told them that they were not required to account [1,924] but they were always subject to give an accounting to any of the contributors if an accounting were asked for.

Q. You told them they were not required to ever make an accounting until somebody asked for it? A. If they didn't want to they didn't have to. This was not a requirement under the law. They could either account or not, but they have to act at the request of a contributor.

Q. You say this was not a requirement under the law? A. That is right, sir.

Q. Under what law was this so-called trust set up? A. There is no law which in any way relates to this Fund.

Q. Is it fair to characterize it sort of outside the law, this Fund that you created? A. No, this is not outside the law.

Q. All right, sir. A. This Fund is within the common law rights of persons to get together and pool their money and engage in political activities. It is a fundamental right which needs no specific law to authorize it, and it is not regulated by any law.

Q. You mean the conduct of this Fund that you created is not regulated by any law? A. That is right, sir.

Q. Not even the common law? [1,925] A. You're talking about the duty to account as a common law trustee, yes, I just told you that. If you're talking in terms of specific statutes, or regulations, no, it doesn't fall within the scope of any of those.

Q. Sir, in the advice as to what these funds could be used for, what did you tell them if anything about that?
A. I told them that they should in the card that people signed spell out the areas within which the money would be used.

Q. And you in fact prepared the card? A. I did, sir.

Q. Well, let's look at these areas.

Number one is political? A. Yes, sir.

Q. Number two is education? A. Yes, sir.

Q. Is there any reason so far as you know why a separate entity would need to be created for the operation of an education program? Said another way, couldn't the Union do this within the framework of its own organization and by its regular funds and by its regular officers?
A. Oh, certainly they could do it if they wanted to, and this Fund could likewise do it if they wanted to.

Q. And what about legislative, could that be properly done, legislative activities, could that be done under—
[1,926] A. By whom?

Q. Well, by the Union? A. Yes, sir, and likewise by the Voluntary.

Q. What about charity? A. In the case of this Union, it could be done by the Union and by the Voluntary Fund.

Q. Either one? A. Either one.

Q. And Defense Fund? A. Defense Fund, within the limits of certain safeguards spelled out in the Constitution of this Union, money from the Union could be spent for certain definite purposes.

Q. Yes, sir. A. In the Voluntary Fund there are no limitations which water down the subject which may be—

Q. But the Defense Fund could be paid for or defense expenses could be paid for out of the regular Union dues?

A. Well, if you will refer to the Constitution of this Union,

you will see in there that there is an article which spells out in detail the circumstances under which any money of the Union can be used for any defense purposes, and the limitations on the right are also spelled out word for word in the Constitution.

Q. The only one of the reasons that appears on the card [1,927] that could be done by the Union was the political one, and that only for federal political purposes? A. Well, of course, the Union can spend its funds for political purposes, contributions, campaigns, for any candidate for city, county or state office. They are only prohibited from making contributions for expenditures on behalf of candidates for federal offices.

Q. So of all of the purposes that you set out on the card, the only one that the Union itself couldn't do would be the part of the political contributions for federal candidates? A. No, there are really others. If you like, I will tell you of one that actually happened.

Q. All right, that couldn't— A. Could not be done by the Union, could not be done by the Union.

Q. All right. A. I was engaged in the trial of a case involving the Meatcutters Union and their health and welfare trust fund. It was litigated first in this court, later in the appellate courts of the United States. I represented one of the defendants in that case. At the point where we were getting into the Court of Appeals, after trial here, my client ran out of money, and in order to help him finance this litigation which had a bearing on the welfare funds of unions all over the country, [1,928] including 562, the Voluntary Fund made a donation of \$2,000, the Teamsters Union made a donation of \$2,000, and that money was used to finance the appeal.

Now, the Voluntary Fund could do that. The Union could not.

Q. Well, why couldn't the Union do it if it was for the Union's benefit? A. Because the scope of the objectives

of the Union and the purposes for which union money can be used, as spelled out in the Constitution and By-Laws of this Union, is not broad enough to authorize that sort of a donation.

Q. Not even by unanimous consent of all the members?

A. No, it would require an amendment of the Constitution. The members cannot themselves do anything except amend the Constitution. This has been tested out in labor cases in the east.

Q. Is this the only exception? A. No, no, there are many things the Voluntary Fund can do that the Union could not do. It is not limited just to political activities.

Q. Well, can you think of another one for an illustration? A. Yes. Persons who might be a union member and who might perhaps be out of work because the Union is on strike, many times these persons become seriously involved in financial [1,929] difficulties, even when their union pays them certain minimum strike benefits, they still may need more help. Some members on strike more than others, some perhaps to meet a mortgage, some to pay for a car, some with more kids needing more groceries, and they may require greater financial assistance than the strike benefits provided by the Union.

Q. Would you call — A. Excuse me, I'm not finished.

Q. All right. A. The Union could not go beyond their prescribed strike benefits. The Voluntary Fund on the other hand could if it wished make donations to needy strikers of this union or incidentally, any other union on strike, which could be done by the Voluntary Fund. It could not be done by the Union. Organization activity, strike activities of other unions, that come into financial difficulties, financial problems, where they need financial support from other unions, in the same trade labor movement, they often solicit that financial support.

Local 562 could not give that support. The Voluntary Fund could. And one other good example, and once every year in the City of St. Louis the Local Union of Harold Gibbons, Local 688 of the Teamsters, sponsors a charity show, as we all know, where they raise a half a million dollars once a year to donate to charity. I happen to know that the Voluntary Fund [1,930] bought tickets, so many that it cost them eight to ten thousand dollars to buy tickets.

Q. And you're telling us that that couldn't be done by the Union as one of its legitimate and proper activities? A. That is exactly what I'm telling you.

Q. Would you consider that a proper, legitimate activity of a union? A. I think it is legitimate if it is authorized in the constitution and by-laws of the union. It is not legitimate unless it is authorized in the constitution.

Q. You write it, I believe? A. I did.

Q. Did you leave that out by oversight? A. No, sir.

Q. Did you intend it specifically to eliminate that as a proper legitimate activity of a union? A. I didn't intend specifically to eliminate anything. I intended to draft a constitution showing that the objectives of this union would be in conformity with the generally understood objectives of labor organizations.

Q. All right, sir. Sir, in further giving advice to these clients of yours did you tell them anything about setting up these contributions on a formula based in part upon—well, based upon the hours that they worked? [1,931] A. The only advice I gave on that subject was this, that as far as myself as a lawyer was concerned, that the amount that they set, or the formula they used didn't make any difference as long as they followed my other instructions.

Q. Now, you say the formula that they set or the amount that they determined? A. Yes, sir.

Q. Who did you mean by that, that they determined or they set? A. The contributors.

Q. You mean you assumed that each contributor would voluntarily put in whatever he wanted to ever so often or did you anticipate that this would be a fixed amount determined and the payments would be regular and based upon an identical formula? A. I told these people they could do it either way, it didn't make a bit of difference.

Q. All right, sir. Sir, did you tell them about keeping the records showing the amount that each member of Local 562 pay for each and every work week that they worked showing exactly how much that they paid? A. I told them to keep records which would show the names of persons who make contributions and the amount of their contributions.

[1,932] Q. What was the purpose of that, sir? A. So that if the person in charge were asked by any contributor at any time to account, he would have records which would enable him to do so.

Q. Did you tell them to account for all cash received? A. I told them —

Q. Keep records for that? A. I told them to keep records of all contributions received and the names of the persons who made the contributions.

Q. Sir, did you tell them anything about how the funds should be deposited? A. No, sir.

Q. Did you tell them that they could put all this cash in safe deposit boxes? A. I was asked at one time, after the Fund was in operation, whether it was all right to put the money in safe deposit boxes in cash. I told them yes, it was all right, but as far as I was concerned, if I were doing it as a person, I would use a bank.

Q. Yes, sir. Do you know if they used the bank? A. Yes.

Q. Sir, what did you tell them about giving receipts to members who contributed? A. I didn't tell them anything about that.

[1,933] Q. But you told them that they should keep enough records or sufficient records to at all times account for the monies that they received? A. Yes, sir, yes, sir.

Q. Could you think of any way that that could be done unless receipts were given to the individual contributors?

A. Oh, yes.

Q. How? A. First you get individual contributors to sign a card, such as the one you showed me, and then you have a record of some kind to show the name of the person who contributed and what he contributed and you keep that as your record. Now, I—

Q. Sir, do you know if these cards contained the amount that each person contributed? A. The amount of contributions is not—excuse me. There have been more than one card used over a long period of years. My recollection is that the amount of the contribution is shown on the card and if my memory serve me right, I think there is a blank space where the amount is written in or something of that nature.

Q. Do you know if those blank spaces were in fact filled out? A. I have not examined the cards, if that is what you mean. I could not say of my own personal knowledge what the [1,934] completed cards show. I don't know.

Q. All right. Sir, did you tell them that a certain class of people should be excluded from contributing to this Fund? Did you ever tell them that on certain occasions that they could exclude members working on a 562 job from paying into the Fund? I mean "preclude" instead of "exclude", or either one? A. Well, my advice was that they—

Q. No answer that question. Did you ever tell them that? A. I have to answer it yes, but it is not an informative answer.

Q. You mean you have told them that they could exclude or preclude people from paying into this Fund? Your answer to that is yes? A. Yes, as a matter of fact they did.

Q. What type of people did you tell them they could exclude? A. Any type of classes that they wanted to.

Q. They discussed that with you? A. Yes, they did.

Q. Who did? A. I have talked with Eddy Steska about this. I have talked with John Lawler about this. I have talked to [1,935] George Seaton about this. I have talked to Virgil Walsh about this.

Q. Sir, specifically, did you discuss the exclusion of contributors from the Chesebrough-Pond project over in Jefferson City? Did they discuss that with you? A. Chesebrough job? I remember the job. I cannot recall any discussion about contributions or non-contributions from those people. I'm not saying that it wasn't discussed at some time. I certainly don't recall it at the moment.

Q. Sir, did you ever give them any specific categories to exclude from participating in this Union? A. I did not.

Q. Such as apprentices? A. No.

Q. Or people with hardships? A. I gave them no advice or instructions. I did tell them that they could include or exclude anyone they wanted to.

Q. Mr. Craig, did you give them advice with respect to setting up the Callanan Gift Club?

Mr. Daly: Your Honor, may we object to this and ask it be stricken and the jury instructed to disregard it as irrelevant and immaterial and certainly outside the scope of the direct examination?

The Court: I don't recall any direct examination [1,936] with reference to this, Mr. Riddle.

Mr. Riddle: There wasn't, but I think that this would be within the rule for the over-all interpretation of his testimony, Your Honor.

The Court: I have permitted interrogation of other witnesses on that subject because it went to the voluntariness of the contribution. This witness has testified as to the advice he has given and on direct examination there was nothing about this Callanan Gift Fund and what advice he gave him about it, and I think it is beyond the scope of the direct examination, so I am going to sustain the objection.

Mr. Riddle: All right, just one second, Your Honor.

The Court: Absent your being able to show me where it comes within the purview of it. You haven't demonstrated that to me.

Q. (By Mr. Riddle) All right, sir, did you give them any advice about whether or not this Fund should be headed or in charge of a person who at the same time occupied a position or an office in the Union? A. Yes, sir, I did.

Q. You approved that also, I guess? A. Yes, I approved of it and told them there was nothing wrong with it.

Q. You didn't consider that to be compulsory in any [1,937] sense in the eyes of the membership? A. By no stretch of the imagination.

Q. Whose imagination? A. Mine and the membership.

Q. Yours and you know what their imagination is? A. Mr. Riddle, yes, I really do. I know what these pipefitters think.

Q. Sir, did you give them any advice about whether or not it was necessary for them to keep minutes of the

meeting of the contributors? A. I can't recall discussing that subject with them at all, Mr. Riddle.

Q. Sir, are you familiar with the legal phrase "alter ego"? A. Yes.

Q. What does that mean to you? A. One for the other.

Q. One for the other? A. Yes, or equivalent of, basically the same.

Q. Does this Fund appear to you to be the alter ego of the Union? A. No, sir.

Q. It does not? A. No, sir.

[1,938]. Q. You don't think they are one and the same? A. I know they are not.

Q. The members the same? A. I beg your pardon?

Q. Is the membership the same? A. No, there are differences.

Q. In what respect? What are the differences? A. The members of the Union have always been limited in number and have not included pipefitters working here in this area on construction projects as pipefitters. For example, travel card men, transfer card men or other persons perhaps belonging to no union that might work. So that the contributors to the Voluntary Fund have in the past, and I assume now, consisted of persons who are not members of the Union.

Q. They are all pipefitters, they are all people who have worked on Local 562 jobs, aren't they? A. Well, they are people who work on construction projects for employers who have a collective bargaining relationship with the Pipefitters Union.

Q. 562. All right, sir. A. Not 562 jobs by any means.

Q. Sir, the meetings of the so-called Fund, so far as you know, are all held at the Union hall, or at another hall [1,939] used by the Union for its regular meetings? A.

I don't know where the meetings have regularly been held. I don't know.

Q. Sir, to make this entirely clear, it is your testimony that it was your advice to these clients that there was to be no compulsion used in the collection of this money?

A. No, sir, as I explained previously—

Q. Well, was compulsion all right in your opinion? A. It might be all right or it might be all wrong, depending upon the nature of compulsion and the area in which it was used. The only prohibited compulsion that I cautioned them against, and I instructed them on, was the admonition that under no circumstances could the obtaining of employment, the continuance of employment or union membership, depend upon the making of the contributions.

Now, this is the area of compulsion that I discussed with them, and this is the same area of compulsion that I discussed with Frank Kleiler up in Washington.

Q. And that type of compulsion you say you advised them that they should not use? A. This is right.

Mr. Riddle: All right.

That is all.

The Court: Anything else, Mr. Riddle? Have you [1,940] concluded your cross-examination?

Mr. Riddle: Yes, sir.

The Court: Any redirect?

Mr. Randall: No redirect.

The Court: All right, step down.

(Witness excused.)

.

[1,950] **OBJECTIONS TO COURT'S CHARGE
TO THE JURY.**

The Court: What about these first two pages?

Mr. London: Pass.

The Court: Attorney talking to witness?

Mr. London: It is OK.

The Court: This is yours.

(Mr. London indicated yes.)

The Court: All right. The testimony of an accountant is to be received and weighed by you in the same manner as the testimony of any other witness.

Mr. London: We have no objection to that.

The Court: Indictment is not evidence of guilt.

Mr. London: No objection.

The Court: Circumstantial evidence.

Mr. London: As to circumstantial evidence we feel that the instructions offered by the defendants with regard to the law of circumstantial evidence more correctly state the law pertaining thereto.

The Court: Be overruled.

Now, what is your objection to this Government's instruction, which we discussed before? Do you remember?

[1,951] Mr. London: We object to any portion of the indictment being read to the jury. That is not a proper portion of the charge, and gives undue emphasis to those factors which are contained in the indictment.

The Court: Are you going to—

Mr. Randall: We should add we do not object to the fact that the entire indictment is not read.

Mr. London: That is correct.

The Court: Conspiracy is a combination of two or more persons to accomplish some unlawful purpose.

Mr. London: We would object to that. We object to this instruction on the grounds that it is a comment on the evidence, and that it shifts the burden of proof—not shifts the burden of proof, but it lessens the burden of proof, which the Government must sustain in this case, by reference to sleight act, and also his comments, and in view of the fact that the references to secrecy and words of that nature—

The Court: What is wrong with deleting, Mr. Riddle, from the first sentence of the third paragraph, "Since secrecy is ordinarily a feature of a successful conspiracy?"

Mr. Riddle: That's all right.

(The Court struck the quoted clause from the instruction.)

The Court: Let the record show that the instruction says nothing about a sleight act, and that secrecy has been [1,952] deleted.

Mr. London: Just in explanation, I think one of the instructions does, Your Honor. I am not sure. If you say that one doesn't I am sure that you are correct.

The Court: All right. The next instruction is "You are further instructed that to be a member of a conspiracy, a defendant need not know the identity of all of the other members nor all of the details of the conspiracy, nor the means by which the object or purpose thereof was to be accomplished."

Mr. London: We will object to this on the grounds that it contains comment on the evidence is argumentative, and does not fully state the law with respect to the conspiracy instruction submitted by the defendants, and I believe

this instruction—I don't have it in front of me—I believe it is minor act, minor part. I believe that is a comment that lessens the Government's burden of proof.

The Court: Do you want to offer a change on that?

The objection will be overruled.

The Court: The crime charged in this case requires proof of specific intent before a defendant can be convicted.

Mr. London: No objection to this, Your Honor.

The Court: Knowingly?

Mr. London: No objection.

The Court: Willfully?

[1,953] Mr. London: No objection.

The Court: Unlawfully?

Mr. London: No objection.

The Court: The indictment alleges the commission of sixty-one overt acts to effect the purpose of the conspiracy. However, it is not necessary that you find that all of such overt acts were performed. The finding of only one overt act is sufficient.

By the term "overt act" is meant any act committed by one or more of the conspirators in an effort to and manifesting an intent or design to accomplish the purpose of the conspiracy. The overt act need not be criminal in nature, if considered separately and apart from the conspiracy. It is necessary only that the overt act, whatever its nature, be knowingly done by one or more of the conspirators during the existence of the conspiracy in furtherance of some object or purpose thereof.

Mr. London: We will object to that on the ground it lessens the Government's burden of proof, Your Honor

please. It is not a correct statement of the law, and it is unsupported by the evidence.

The Court: That will be overruled.

The indictment also charges that a number of means or methods were agreed upon to carry out the conspiracy. However, it is not necessary for the Government to prove that all [1,954] of such means or methods set out in the indictment were agreed upon to carry out the conspiracy or that all such means or methods were actually used or put in operation. It is necessary, however, that the evidence establish beyond a reasonable doubt that one or more of the means or methods described in the indictment was agreed upon to be used in an effort to accomplish some object or purpose of the conspiracy as charged in the indictment.

Mr. London: I object to this as not being supported by the evidence, and at variance with the indictment, there being nothing set forth in the indictment as to the various means and methods.

It constitutes a comment on the evidence.

The Court: That will be overruled.

As I have stated, the crime with which the defendants are charged is that of conspiracy to willfully violate Section 610 of Title 18, United States Code.

(The Court read the entire instruction.)

The Court: I don't think you had any objection to that.

Mr. London: Just standard. Incorrect statement of the law, and unsupported by the evidence.

The Court: All right. Then this is that long one which we modified and incorporated in your suggestion.

Mr. London: With regard—Do you want to [1,955] describe it in some way for the record?

The Court: It is a three-page—You will note that Section 610 prohibits contributions by labor organizations for use in connection with an election for a federal office.

Mr. London: We will object, if Court please, to those portions of that instruction dealing with the evidentiary facts that the jury may consider in reaching their ultimate fact.

I would feel that this is a highly prejudicial comment on the evidence. It takes from the jury their right to consider all of the evidence, and highlights certain portions that they are to consider.

I believe I said that the instruction is argumentative in nature, and the instruction is unsupported by the evidence in the indictment and is not a complete and accurate statement of the law.

The Court: Let the record show that the Court incorporated as part of this instruction Section No. 10, 11, 12, 13, 14, 15, 16 and 17, at the request of the defendant, and that the last part of the instruction requires the jury to consider all the facts and circumstances into evidence.

Mr. London: May we clarify one point for the record, Your Honor? We have added the parts that you have so indicated, but our initial objection was to the instruction with the request that it not be given, and only in the [1,956] alternative did we submit these additional points.

The Court: All right. Then the next one is the Government's position instruction.

Mr. London: We object to that on the grounds it is not truly a position instruction, but is an argument on behalf of the Government. It states evidentiary facts, states facts which are unsupported by the evidence, and does not conform to the requirements of the law for a position instruction.

The Court: The next one—that will be overruled—The next one is your position instruction.

The next one is the advice of counsel.

Mr. London: No objection.

The Court: And then the next one is a great deal of evidence has been introduced on the question of whether the payments into the Pipefitters Voluntary Political, Educational, Legislative, Charity and Defense Fund by members of Local 562 and others working under its jurisdiction were voluntary or involuntary. This evidence is relevant for your consideration, along with all other facts and circumstances in evidence, in determining whether the Fund is a union fund. However, the mere fact that the payments into the Fund may have been made voluntarily by some or even all of the contributors thereto does not, of itself, mean that the money so paid into the Fund was not union money.

Mr. London: We will, of course, object to that as [1,957] being one of our theories that the voluntariness is an ultimate issue in this case, and if the money was voluntarily paid, then it is not union money; that this is an incorrect statement of the law pertaining thereto.

Mr. Riddle: Well, Your Honor, we think that it is a correct statement of the law. The fact that money is paid into a union voluntarily or involuntarily, and then that money is used for an illegal act, the fact that it came in either way doesn't have any bearing on whether the expenditure was legal or illegal.

The Court: All right. I will overrule the objection. In considering whether or not any defendant was a member of the alleged conspiracy, you must do so solely on the evidence concerning his own actions and conduct, and his own connection with the actions and conduct of others. The guilt or innocence of each defendant must be separately considered and decided.

Mr. London: No objection, Your Honor.

The Court: A criminal conspiracy is an offense distinct from the crime which is the alleged object of the conspiracy.

(The Court read the entire instruction.)

Mr. London: We will object that it is a comment on the evidence. It is repetitious of other portions of the charge.

[1,958] The Court: I think I will probably take that out.

Mr. Randall: I thought it was a necessary—frankly, I let my mind drift off. I thought it was a necessary part of the conspiracy though.

Mr. London: They are talking about the mere fact that they violated 610 does not prove they are guilty of a conspiracy, but it is necessary—

(The Court read another portion of the instruction.)

Mr. Randall: All right. I will go along with your objection.

Mr. London: OK.

The Court: Be overruled.

The essential elements which must be proved beyond a reasonable doubt in order to establish the offense of conspiracy charged in the indictment as to each defendant are—You have got those. You have read it.

Mr. London: We object to this as being an incorrect statement of the law; that the law touching upon conspiracy is more fully set forth and properly set forth in instructions offered by the defendant.

The Court: Burden of proof. Presumption of innocence. Reasonable doubt. All right.

The indictment charges that the defendants willfully conspired to have Local 562 make the contributions and

to willfully consent to the making of such contributions. [1,959] In this connection you are instructed that if under the evidence and the other instructions you find the defendants, or any of them, guilty of willfully conspiring to do either or both of the acts which constitute a violation of Section 610, but find that said conspiracy did not contemplate a willful violation of Section 610, then your verdict of guilty should so state.

Mr. London: I lost sight of it. Let me take a look at it. No objection.

The Court: Unless otherwise specifically indicated, each instruction should be considered by you as referring separately and individually to each defendant.

Mr. London: No objection.

The Court: Twelve of your number.

Let the record show that the defendants, and each of them, object and except to the action of the Court in refusing to direct a verdict at the conclusion of the Government's case, and which motions are lettered "A", "B", "C" and "D", and they again object and except to the action of the Court in refusing to direct a verdict of acquittal at the conclusion of all the evidence, which are lettered "E", "F", "G", and "H", and they object and except to the action of the Court in refusing to give refused instructions lettered "I" through and including "ZZ", and that the Court has refused the instructions on the [1,960] grounds they either improperly declare the law or have been fully covered by the charge.

Mr. London: For the record, Your Honor, I think it is probably in there, but all the objections that we have made to the charge are being made on behalf of all the defendants.

The Court: All right. Let's go out and get going.

DEFENDANTS' REFUSED INSTRUCTIONS.

* * * * *

[1,961] Defendants' Refused Instruction "L".

Under the law you may find the defendants or any of them guilty of a lesser crime than that charged in the indictment. Therefore, if you find and believe from the evidence beyond a reasonable doubt that the defendants conspired to commit the acts charged in the indictment, but that in so doing they did not act willfully, that is to say, with the intent to violate the law, then you will find the defendants not guilty of the charge set out in the indictment, and you will consider whether the defendants are guilty of having committed said [1,962] offense without willfulness. And, if you find beyond a reasonable doubt that the defendants committed the acts charged against them but that they acted without willfulness or intent to violate the law, you may find them guilty of such lesser offense.

* * * * *

[1,964] Defendants' Refused Instruction "S".

The Court instructs the jury that unless you find beyond a reasonable doubt that contributions made to the [1,965] Political, Educational, Legislative, Charity and Defense Fund were made by members of Local 562 involuntarily, you must find the defendants not guilty.

Defendants' Refused Instruction "T".

It is the position of the defendants that they did not conspire to violate any law of the United States. It is further their position that the Political, Education, Legislative, Charity and Defense Fund was a voluntary fund created by certain union members of Local 562, after seeking advice of counsel; that the fund was created for politi-

cal, educational, legislative, charity and defense purposes, and for the promotion of the general welfare of all contributors to the fund; that it was a fund separate and apart from Local 562; and that the contributions to the fund were voluntary. In this connection, the Court instructs the jury, that if you find that the Government has failed to prove beyond a reasonable doubt that contributions were made to the fund involuntarily, you must find the defendants not guilty.

Defendants' Refused Instruction "U".

If you find that the defendants acted in good faith believing their acts with respect to the Political, Educational, Legislative, Charity and Defense Fund to be lawful, then you must find the defendants not guilty. In other words, unless you find beyond a reasonable doubt that the defendant acted in [1,966] bad faith, your verdict shall be not guilty.

* * * * *

[1,967] Defendants' Refused Instruction "Z".

The Court instructs the jury that the law permits labor union members to set up a fund or organization for the collection of money to be used for making contributions to candidates for federal political office. The law merely prohibits labor union money from being used for such purposes. Therefore, if you find that contributions made to the Political, Educational, Legislative, Charity and Defense Fund were made by members of Local 562 voluntarily and did not constitute the payment of union dues or labor union money, you must find the defendants not guilty.

Defendants' Refused Instruction "AA".

The Court instructs the jury that the law permits labor union members to set up a fund or organization for the collection of money to be used for making contributions

to candidates for political office. The law merely prohibits union dues or assessments from being used for such purposes. Therefore, if you find that contributions made to the Political, [1,968] Educational, Legislative, Charity and Defense Fund were made by members of Local 562 voluntarily and did not constitute the payment of union dues or assessments, you must find the defendants not guilty.

Defendants' Refused Instruction "BB".

The Court instructs the jury that the law permits labor union members to set up a fund or organization for the collection of money to be used for making contributions to candidates for federal political office. The law merely prohibits money of a labor union from being used for such purposes. In this connection, money contributed by members of a labor union, voluntarily, for the purpose of being used for political purposes, with knowledge of such purpose is not money of a labor union. Therefore, if you find that contributions made to the Political, Educational, Legislative, Charity and Defense Fund were made by members of Local 562 voluntarily and that they were made by the members for political purposes then you must find the defendants not guilty.

.

[1,973] Defendants' Refused Instruction "MM".

You will note that the acts charged in the indictment are alleged to have been done "willfully".

An act is done "willfully" if done intentionally and purposely and with the specific intent to do that which the law forbids; that is to say with evil motive or bad purpose either to disobey or to disregard the law.

Defendants' Refused Instruction "NN".

An act is done "knowingly" when it is done with actual knowledge of the facts and with the purpose and intent of violating the law. Unless there is a purpose and intent to violate the law, an act is not done knowingly.

[1,974] An act is done "wilfully" if done intentionally and with an evil intent.

An act is done "unlawfully" if it is done contrary to the law.

.

[1,977] Defendants' Refused Instruction "VV".

The Court instructs the jury that the law permits [1,978] labor union members to set up a fund or organization for the collection of money to be used for making contributions to candidates for federal political office. The law merely prohibits labor union money from being used for such purposes. Therefore, if you find that contributions made to the Political, Educational, Legislative, Charity and Defense Fund were made by members of Local 562 and did not constitute the payment of union dues or labor union money, you must find the defendants not guilty.

.

Defendants' Refused Instruction "XX".

The Court instructs the jury that if you find and believe from the evidence beyond a reasonable doubt that the defendants conspired to commit the acts charged in the indictment, [1,979] but that in so doing they did not act willfully, that is to say, with the intent to violate the law, then you will find the defendants not guilty of the charge set out in the indictment, and you will consider whether the defendants are guilty of having committed said offense without willfulness. And, if you find beyond a reasonable doubt that the defendants committed the

acts charged against them but that they acted without willfulness or intent to violate the law, you may find them guilty of such lesser offense. Unless you find the facts so to be, beyond a reasonable doubt, you must find the defendants not guilty.

Defendants' Refused Instruction "YY".

The Court instructs the jury that the law permits labor union members to set up a fund or organization for the collection of money to be used for making contributions to candidates for federal political office. The law merely prohibits money of a labor union from being used for such purposes. In this connection, money contributed by members of a labor union, for the purpose of being used for political purposes, with knowledge of such purpose is not money of a labor union. Therefore, if you find that contributions made to the Political, Educational, Legislative, Charity and Defense Fund were made by members of Local 562 and that they were made by the members for political purposes, then you must find the defendants not guilty.

[1,980] Add to defendants' Specific Intent instruction the following: Such intent may be determined from all the facts and circumstances shown by the evidence.

Defendants' Refused Instruction "ZZ".

The crime charged in this case requires proof of specific intent before a defendant can be convicted. Specific intent, as the term implies, means more than the general intent to commit the act. To establish specific intent the Government must prove that the defendants knowingly, willfully and purposely did an act which the law forbids.

.

[2,054] **COURT'S CHARGE TO THE JURY.**

The Court: Members of the Jury:

It now becomes my duty to give you instructions as to the law which you will use and be governed by and apply to the facts in this case in reaching your verdict on the questions that are presented to you for your decision.

You have listened to the evidence and the arguments of counsel and it now becomes my duty to instruct you as to the law. I can only give you these instructions orally as I am now doing. There is no provision in the law that permits me to give you your instructions in any other manner. It is, therefore, necessary that you pay close attention so that you [2,055] may carry these rules of law to your jury room and there use and apply them to the facts of this case.

You should bear in mind that while it may appear from time to time that I am giving you special instructions, that is not correct. I am giving you instructions which should be received by you to apply as a whole. Don't attempt to separate them and disregard part of them and use and apply the remainder.

It is my duty to pass on all questions of law and at the close of the argument to charge you with respect to the law; in other words, to tell you what the law is to guide you in your deliberations. It is your function and duty to pass on the facts, and when you have determined what those facts are, to apply the law as the Court shall give it to you to those facts. In approaching and performing your duties, you should have but one purpose; you should have a zeal and determination to do justice, exact and impartial, between the Government on the one hand and the defendants on the other. You have nothing to do with the matter of fixing punishment. That becomes the sole duty of the Court in the event the defendants are found guilty. You will, therefore, direct

your attention to the testimony in the case and determine from it what the true facts of the case are and apply the law as I shall give it to you, to those facts, and thus arrive at a verdict under the law and the evidence.

You are the sole judges of the credibility of the witnesses and the weight and value to be given to their testimony [2,056] as well as all the evidence and facts and circumstances detailed before you and which have been presented in this trial. In weighing and reconciling the testimony, you should look to the demeanor and manner of the witness testifying, his willingness or unwillingness to answer; to, the lack of interest, or interest, of any witness in the case; to the relationship of the parties; to the means of knowledge, or lack of knowledge of the facts about which such witness testifies; to the opportunity of the witness to know the facts about which he purports to testify; to the reasonableness or unreasonableness of the witness's testimony; to its probability or improbability, and whether the witness has made contradictory statements or not, about material matters involved in this case, and thus having carefully considered all the matters, you must fix the weight and value of the testimony of each and every witness and of the evidence as a whole.

If you should conclude that a witness has willfully testified falsely to some material matter in the case, you should consider that in determining the credibility of the rest of such witness's testimony, and you are at liberty to reject all of such witness's testimony, as well as the part which you feel to have been willfully false.

There has been testimony by some witnesses that they have spoken with attorneys about the case prior to being called as a witness. There is nothing improper about an attorney [2,057] interviewing a witness prior to the time such witness testifies in the case.

It is the duty of attorneys to object to questions asked by opposing counsel when they feel that such objections

are appropriate and necessary, and you are in no way to consider in your deliberations the frequency or nature of the objections made by counsel for either side.

The testimony of an accountant is to be received and weighed by you in the same manner as the testimony of any other witness. Any summaries or charts prepared by him and admitted in evidence are competent for the purpose of explaining facts disclosed by books, records, and other documents which are in evidence. However, such charts or summaries are not in and of themselves evidence or proof of any facts. So if you should find that such charts or summaries do not reflect facts and figures shown by the books, records, documents, and other evidence in the case, you must disregard them.

That is to say, such charts or summaries are used only as a matter of convenience, and unless you find that they are in truth summaries of facts and figures shown by the evidence in the case, you are to disregard them entirely.

The indictment is not to be considered by the jury as any evidence of the guilt of the defendants or any of them. It must not, in your minds, create even a suspicion of guilt [2,058] upon their part. It is merely the manner by which the case is brought before you for your consideration, and the fact that an indictment has been returned may not be considered as any evidence of the guilt of any defendant.

Evidence is of two kinds, direct and circumstantial. Direct evidence is the testimony of one who asserts actual knowledge of a fact, such as an eye witness; circumstantial evidence is proof of a chain of facts and circumstances indicating the guilt or innocence of a defendant. The law makes no distinction between the weight to be given to either direct or circumstantial evidence; it requires only that the jury, after weighing all the evidence, must be convinced of the guilt of the defendant beyond a reasonable doubt before he can be convicted.

In this case, prosecution is based on a statute which is an Act of Congress and federal law. It reads in pertinent part as follows:

“If two or more persons conspire to commit any offense against the United States, and one or more of such persons do any act to effect the object of the conspiracy, such person . . .”

shall be guilty of committing an offense against the United States, and then the statute provides the penalty with which you are not concerned.

[2,059] The indictment based on this statute, omitting the caption, reads as follows:

“The Grand Jury charges:

“1. That at all times hereinafter mentioned defendant Pipefitters Local Union No. 562, St. Louis, Missouri (hereinafter referred to as Local 562), affiliated with the United Association of Journeymen and Apprentices of the Plumbing and Pipe Fitting Industry of the United States and Canada, AFL-CIO (hereinafter referred to as the United Association), was a labor organization within the meaning of Section 610 of Title 18, United States Code, that is to say, an organization in which employees participated and which existed, in part, for the purpose of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work.

“2. That at all times hereinafter mentioned John F. Burke was an officer of defendant Local 562.

“3. That from on or about October 12, 1966, up to and including the date of the filing of this indictment, defendant Lawrence L. Callanan was an officer of defendant Local 562.

“4. That at all times hereinafter mentioned defendant John L. Lawler was an officer of defendant Local 562.

"5. That at all times hereinafter mentioned, defendant George Seaton was an officer of defendant Local 562. [2060]

"6. That at all times hereinafter mentioned Edward J. Steska was an officer of defendant Local 562.

"7. That at all times hereinafter mentioned, the Pipefitters Voluntary, Political, Educational, Legislative, Charity and Defense Fund (hereinafter the Fund), was a fund of defendant Local 562, established, maintained, and administered by officers, employees, members, agents, foremen and job stewards of defendant Local 562, to effect a regular and systematic collection, receipt, and expenditure of moneys obtained from working members of defendant Local 562 and from working members of other labor organizations employed under the jurisdiction of defendant Local 562.

"8. That at all times hereinafter mentioned, the term 1964 General Election refers to the general election held in 1964 pursuant to the laws of the United States and of the several states at which, among others, Presidential and Vice Presidential electors, United States Senators and Representatives to Congress were voted for—

(Defendant Callanan had a coughing spell.)

The Court: Take him outside.

(Defendant Callanan was taken from the courtroom by defense counsel. Following a brief period, defendant Callanan and defense counsel returned to the courtroom, and the Court continued his charge to the jury as follows:)

The Court: (Continuing) —and the term 1966 General [2,061] Election refers to the general election held in 1966 pursuant to the laws of the United States and of the several states at which, among others, United States Senators and Representatives to Congress were voted for.

"9. That from in or about 1963 and continuously thereafter up to and including the date of the filing of this in-

dictment, in the City of St. Louis, in the Eastern District of Missouri, and elsewhere, Local 562, Lawrence L. Callanan, John L. Lawler and George Seaton, the defendants herein, and John F. Burke and Edward J. Steska, named herein as co-conspirators but not as defendants, unlawfully, wilfully and knowingly did conspire and agree with each other and with divers other persons to the grand jurors unknown, to violate Section 610 of Title 18, United States Code, in that they did unlawfully, wilfully, and knowingly conspire and agree to have Local 562 make contributions and expenditures in connection with elections at which Presidential and Vice Presidential electors or United States Senators and Representatives to Congress were to be voted for, and to wilfully consent to the making of such contributions and expenditures by Local 562.

"10. It was a part of said conspiracy that the defendants and co-conspirators would establish and maintain a special fund entitled 'Pipefitters Voluntary Political, Educational, Legislative, Charity and Defense Fund,' which fund would have the appearance of being a wholly independent entity, [2,062] separate and apart from Local 562; and that the defendants and co-conspirators would thereby conceal the fact that Local 562 would make contributions and expenditures in connection with elections at which Presidential and Vice Presidential electors or United States Senators and Representatives to Congress were to be voted for.

"11. It was further a part of the conspiracy that defendant John L. Lawler would be Director of the Fund and that at a certain time he would be succeeded as Director of the Fund by defendant Lawrence L. Callanan; and that the Director of the Fund would appear to have control and management of the Fund, including the receipt and disbursement of money and the keeping of its books.

"12. It was further a part of the conspiracy that defendants John L. Lawler and Lawrence L. Callanan would

not have the books of the Fund audited, or afford members of defendant Local 562 and other pipefitters contributing to the Fund any accounting for the money on hand, paid into or disbursed from the Fund.

"13. It was further a part of the conspiracy that the defendants and co-conspirators, by means of the creation and operation of the Fund, would continue in new form the practice of collecting for political purposes One Dollar (\$1.00) per day worked from members of defendant Local 562 and Two Dollars (\$2.00) per day worked from non-member pipefitters [2,063] employed on jobs within the jurisdiction of defendant Local 562.

"14. It was further a part of the conspiracy that the defendants and co-conspirators would waive and fail to enforce Section 180 of the Constitution of the United Association in order to facilitate the payment of monies into the Fund, by failing to collect from non-members of Local 562, working under its jurisdiction, a required travel card fee of not in excess of Eight Dollars (\$8.00) per month, and in lieu thereof, collecting payments to the Fund at the rate of Two Dollars (\$2.00) per eight-hour working day from such non-members.

"15. It was further a part of the conspiracy that the defendants and co-conspirators would cause general foremen, area foremen, job stewards, officers, agents, employees and other members of Local 562 acting in a supervisory capacity over members and pipefitters working on jobs under the jurisdiction of Local 562, to become agents of the Fund in order to facilitate the collection of monies for the Fund on a regular basis on job sites and at the headquarters of Local 562, 1242 Pierce Avenue, St. Louis, Missouri.

"16. It was further a part of the conspiracy that the defendants and co-conspirators, in order to facilitate an orderly, regular and systematic collection of contributions to the Fund, would cause the agents of the Fund, referred

to in Paragraph 15 of this Indictment to distribute to the pipefitters working at all job sites contribution agreement cards to be [2,064] signed by such pipefitters, and to distribute to foremen and job stewards at such job sites printed collection sheets for the Fund upon which to record the number of hours worked by such pipefitters and the amount of the contributions paid by each into the Fund; and that such foremen or job stewards would advise newly employed pipefitters at such job sites of the existence of the Fund and of the rates of participation, that is, for members of Local 562, One Dollar (\$1.00) per eight hours worked; and after January 1, 1965, Fifty Cents (\$.50) per eight hours worked, and for members of other pipefitter locals Two Dollars (\$2.00) per eight hours worked.

"17. It was further a part of the conspiracy that defendant Local 562 would make substantial contributions in connection with the 1964 General Election and the 1966 General Election and that defendants Lawrence L. Callanan and John L. Lawler would consent to such contributions by issuing checks drawn upon the account of the Fund in the approximate total amount of One Hundred Fifty Thousand Dollars (\$150,000)."

Following these allegations the indictment sets forth 61 overt acts which were alleged to be performed by the defendants in order to effect the object of the conspiracy.

A conspiracy is a combination of two or more persons to accomplish some unlawful purpose. It necessarily involves a mutual understanding or agreement between the members of the conspiracy to accomplish an unlawful act. [2,065] In order to create a conspiracy there must be not less than two persons to the understanding or agreement. There is no limit on the number in excess of two. Of course, two are required, because a person cannot enter into a conspiracy with himself, so if two or more persons confederate, or agree, or have a common understanding for

the accomplishment of an unlawful purpose or act, that is, to commit an offense against the laws of the United States, then those persons so agreeing or having such understanding, are conspirators, and the agreement or common understanding is a conspiracy.

By its very nature, a conspiracy seldom can be proved by direct evidence. Therefore, the law does not require that the Government show that the members of the alleged conspiracy met together and entered into any express or formal agreement for an unlawful purpose or that they stated either in writing or by spoken words what their object or purpose was to be or how such purpose was to be achieved. However, the Government must prove, in order to establish that a conspiracy existed, that the alleged members, in some way, impliedly or tacitly came to a mutual understanding to try to accomplish a common and unlawful design, knowing its object. Such proof may be made by circumstantial evidence, that is by showing facts and circumstances, including the acts and conduct of the alleged conspirators, from which you may draw the conclusion that the alleged conspirators had a common design and [2,066] understanding and knowingly and willfully joined together with the intent to accomplish the common and unlawful purpose charged in the indictment.

You are further instructed that to be a member of a conspiracy, a defendant need not know the identity of all of the other members nor all of the details of the conspiracy, nor the means by which the object or purpose thereof was to be accomplished. In this connection, you are instructed that a person who has no knowledge of a conspiracy, but who merely happens to act in a way which furthers the object or purpose of the conspiracy or to associate with others who are charged does not thereby become a conspirator. However, if persons knowingly pursue by their acts the same unlawful object, all

with a view to attaining such object, that is circumstantial evidence tending to show they are engaged in a conspiracy to effect that object. Knowing and intentional cooperation in some form among those charged must be shown by the facts and circumstances in evidence. That is to say, before the jury may find that a defendant joined and became a member of a conspiracy, the Government must establish by the evidence not merely that the conspiracy was formed but that such defendant intentionally, knowingly and willfully participated therein with the intent to advance or further the object or purpose of the conspiracy. The extent of a defendant's participation is not determinative of his guilt or innocence. A defendant may [2,067] be convicted as a conspirator even though he plays a minor part in the conspiracy, provided you find the required knowing and willful participation therein by the defendant with the intent to promote the common design.

The crime charged in this case requires proof of specific intent before a defendant can be convicted. Specific intent, as the term implies, means more than the general intent to commit the act. To establish specific intent the Government must prove that the defendant knowingly, willfully and purposely did an act which the law forbids. Such intent may be determined from all the facts and circumstances shown by the evidence.

An act is done "knowingly" if done voluntarily and with knowledge of the facts, and not because of mistake or inadvertence or other innocent reason.

An act is done "willfully" if done voluntarily and purposely and with the specific intent to do that which the law forbids; that is to say, with bad purpose either to disobey or to disregard the law.

An act is done "unlawfully" if done contrary to law.

The indictment alleges the commission of 61 overt acts to effect the purpose of the conspiracy. However, it is not

necessary that you find that all of such overt acts were [2,068] performed. The finding of only one overt act is sufficient.

By the term, "overt act" is meant any act committed by one or more of the conspirators in an effort to and manifesting an intent or design to accomplish the purpose of the conspiracy. The overt act need not be criminal in nature, if considered separately and apart from the conspiracy. It is necessary only that the overt act, whatever its nature, be knowingly done by one or more of the conspirators during the existence of the conspiracy in furtherance of some object or purpose thereof.

The indictment also charges that a number of means or methods were agreed upon to carry out the conspiracy. However, it is not necessary for the Government to prove that all of such means or methods set out in the indictment were agreed upon to carry out the conspiracy or that all such means or methods were actually used or put in operation. It is necessary, however, that the evidence establish beyond a reasonable doubt that one or more of the means or methods described in the indictment was agreed upon to be used in an effort to accomplish some object or purpose of the conspiracy as charged in the indictment.

As I have stated, the crime with which the defendants are charged is that of conspiracy to willfully violate Section 610 of Title 18, United States Code.

[2,069] Section 610 makes it unlawful for any labor organization to make a contribution in connection with any election at which Presidential and Vice-Presidential electors or a Senator or Representative in Congress are to be voted for or in connection with any primary election held to select candidates for any of such offices, and further make it unlawful for any officer of a labor organization to willfully consent to any such contribution by the labor organization. The term "contribution" includes a

gift or payment of money to be used in connection with the candidacy of a person seeking election to a federal office.

A "labor organization" means an organization in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment or conditions of work, and is commonly referred to as a union.

You will note that Section 610 prohibits contributions by labor organizations for use in connection with an election for a federal office. It does not prohibit any person from making or agreeing to make such contributions or setting up an independent fund for such purpose separate and distinct from union funds either alone or in conjunction with others, simply because such person happens to be a member of a labor organization. That is, the statute is not violated unless the [2,070] contribution is in fact and in the final analysis made by the labor organization.

In this case evidence was offered by the Government to the effect that funds were contributed to or on behalf of candidates for federal office and that such funds were paid out upon checks drawn upon the Pipefitters Voluntary Political, Educational, Legislative, Charity and Defense Fund. It is necessary, therefore, that the evidence establish that the Pipefitters Voluntary Political, Educational, Legislative, Charity and Defense Fund was in fact a union fund, that the money therein was union money, and that the real contributor to the candidates was the union. As to this issue, the defendants contend that the fund in question was a bona fide entity separate and apart from the union, established by the voluntary good faith act of members of the pipefitters Local 562 and others, from which contributions to candidates were made on behalf of the persons who created the fund

and not on behalf of the union. On the other hand, the Government contends that the fund was a mere artifice or device set up by the defendants and others as a part of the alleged conspiracy to give the outward appearance of being an independent and separate entity but in fact constituting a part of union funds.

In determining whether the Pipefitters Voluntary Fund was a bona fide fund, separate and distinct from the union or a mere artifice or device, you should take into consideration [2,071] all the facts and circumstances in evidence, and in such consideration you may consider

1. Whether or not payments to the fund were routinely made at regular intervals at job sites,

2. Whether or not payments to the fund were routinely collected by union stewards, foremen, area foremen, general foremen, or other agents of the union,

3. Whether or not the payment to the fund was determined by a formula based upon the amount of hours or overtime hours worked upon a job under the supervision of the union,

4. Whether or not payments to the fund were at one rate for 562 members and at a different rate for members of other unions,

5. Whether or not payments to the fund began, continued and terminated with employment on a job under the jurisdiction of the union,

6. Whether or not monies of the fund were used to provide benefits to union members in their capacity as members,

7. Whether or not payments to the fund by members of other unions were in lieu of payments to the union in the form of travel card dues in the amount of eight dollars per month,

8. Whether or not monies of the fund were used in part to promote activities properly permitted to the union [2,072] pursuant to Section 2.05 of its Constitution and by-laws,

9. Whether or not payments to the fund were made by those affiliated with the union to the general exclusion of other classes of persons or organizations,

10. Whether or not contributions to the fund were required as a condition of employment or continued employment of membership in Local 562,

11. Whether or not the individuals who contributed to said fund signed a voluntary contribution agreement,

12. Whether or not the contributions to said fund were made voluntarily or involuntarily,

13. Whether or not the monies contributed to said fund were kept separate and distinct from the funds of Local 562,

14. Whether or not some persons who worked under the jurisdiction of Local 562 did not contribute to said fund,

15. Whether or not the monies of said fund were used in part to promote activities which were prohibited to Local 562 by its Constitution and By-Laws,

16. Whether or not said fund was established and maintained pursuant to the advice of counsel,

17. Whether or not the monies of said fund were reported to the Department of Labor on the LM-2 forms, which required the reporting of monies of Local 562.

18. Whether or not expenditures from the fund were under the control of the union and its officers,

[2,073] 19. Whether or not records used in the collection of the payments to the fund are similar to those employed

from time to time by the union in the collection of its regular dues and assessments.

If upon consideration of all the facts and circumstances in evidence you find that the contributions to the candidates for federal office for political purposes were in fact made out of union funds by the union, and that the individual defendants as officers of the union, willfully consented thereto, then you may take this fact into consideration together with other facts in evidence in determining whether there was a prior understanding or agreement so to do.

For your guidance and assistance, members of the jury, I shall now discuss the positions of the prosecution and the defendants in this case.

It is the position of the prosecution that early in 1963 the defendants in this case entered into a conspiracy to violate that section of the United States Code which prohibits a labor union from making contributions of its own funds to federal candidates. The Government contends that these defendants having previously consulted with counsel, were well aware of these provisions of the law and, desiring to evade the provisions of the law, and desiring to give their activities the appearance of legality, they created what was known as the [2,074] Pipefitters' Voluntary Political, Educational, Legislative, Charity and Defense Fund, and further that

This fund was designed by the defendants with the assistance of their counsel in an attempt to circumvent the law and to disguise and conceal the fact that the Union intended to and would systematically contribute to federal candidates.

It is the position of the defendants that they did not conspire to violate any law of the United States. It is further their position that the Political, Educational, Legislative, Charity and Defense Fund was created by certain union members of Local 562, after seeking advice of

counsel; that the fund was created for political, educational, legislative, charity and defense purposes, and for the promotion of the general welfare of all contributors to the fund; and that it was a fund separate and apart from Local 562.

If you find that defendants honestly and in good faith consulted an attorney as to what they might lawfully do in order to conform their actions in good faith to the requirements of Section 610, and fully and honestly presented all of the facts relating thereto to said attorney, and in good faith and honesty followed the advice of such attorney, relying upon it and believing it to be correct, and intending at all times that their acts and conduct shall be lawful, they could not be convicted of a crime which involves willful and unlawful intent [2,075] even if the advice given was an incorrect statement of the law.

On the other hand, if you find that defendants consulted the attorney in bad faith and with the view and purpose of circumventing the requirements of Section 610 and that it was their intent to set up a fund which would merely appear to be separate and distinct from the union, from which the union could make contributions to candidates for federal offices, then the fact that defendants obtained the advice of an attorney would not relieve them from the consequences of their conduct.

A great deal of evidence has been introduced on the question of whether the payments into the Pipefitters Voluntary Political, Education, Legislative, Charity and Defense Fund by members of Local 562 and others working under its jurisdiction were voluntary or involuntary. This evidence is relevant for your consideration, along with all other facts and circumstances in evidence, in determining whether the fund is a union fund. However, the mere fact that the payments into the fund may have been made voluntarily by some or even all of the contributors thereto does not, of itself, mean that the money so paid into the fund was not union money.

In considering whether or not any defendant was a member of the alleged conspiracy, you must do so solely on the evidence concerning his own actions and conduct, and his own [2,076] connection with the actions and conduct of others. The guilt or innocence of each defendant must be separately considered and decided.

A criminal conspiracy is an offense distinct from the crime which is the alleged object of the conspiracy.

The gist of the offense with which defendants are charged is an unlawful agreement to violate Section 610 of Title 18, United States Code, and not any violation of that section which may have been done in pursuance of the conspiracy. Defendants are not on trial for any violation of Section 610, and the mere fact that the substantive offense may have been committed by one or more of the defendants, if you so find, would not in and of itself and without more prove the existence of the conspiracy.

Nevertheless, as you have been told, if you find from the evidence that the defendants, acting in concert, committed the offense described in Section 610, then such fact may be considered by you as one factor in determining whether there was a prior understanding and common design by the defendants to violate Section 610 by concerted action.

The essential elements which must be proved beyond a reasonable doubt in order to establish the offense of conspiracy charged in the indictment as to each defendant are

First, That the conspiracy described in the indictment [2,077] was formed and existing at or about the time alleged,

Second, That such defendant knowingly and willfully became a member of the conspiracy,

Third, That one of the conspirators thereafter during the existence of the conspiracy knowingly committed at least one of the overt acts charged in the indictment, and

Fourth, That such overt act was committed in furtherance of some object or purpose of the conspiracy as charged.

Unless the Government has sustained its burden of proving each of the foregoing elements of the offense charged, then you must acquit such defendant.

If you find from the evidence that the existence of the conspiracy charged in the indictment has been proved, and that during the existence of the conspiracy at least one of the overt acts was knowingly done by one of the conspirators in furtherance of some object or purpose of the conspiracy as charged, then the offense of conspiracy has been proved as to every person found by you to have been knowingly and willfully a member of the conspiracy at the time the overt act was committed, regardless of which of the conspirators did the overt act.

You are instructed that as to each defendant the burden to prove the charge contained in the indictment is upon the Government; that burden the Government assumes in the [2,078] beginning and carries throughout to the end, and the Government can meet this burden only by showing to you the guilt of the defendant beyond a reasonable doubt.

The burden of proof, as you have been told, is upon the Government. Each defendant is presumed to be innocent until proven guilty. This presumption of innocence attends and protects the defendant throughout the trial unless it has been met and overcome by evidence coming forward in the case, and it make no difference from which side it comes, which shows and establishes the guilt of the defendant beyond a reasonable doubt.

The Court further charges you that a reasonable doubt is a doubt based on reason, and which is reasonable in view of all the evidence. And, if, after an impartial comparison and consideration of all the evidence, you candidly can say that you are not satisfied of the defendant's guilt,

you have a reasonable doubt; and if, after such impartial comparison and consideration of all the evidence, you truthfully can say that you have an abiding conviction of the defendant's guilt, such as you would be willing to act upon in the more weighty and important matters relating to your own affairs, you have no reasonable doubt. Putting it another way, a reasonable doubt means a substantial doubt and not the mere possibility of innocence. [2,079] The indictment charges that the defendants willfully conspired to have Local 562 make the contributions and to willfully consent to the making of such contributions.

In this connection you are instructed that if under the evidence and the other instructions you find the defendants, or any of them, guilty of willfully conspiring to do either or both of the acts which constitute a violation of Section 610, but find that said conspiracy did not contemplate a willful violation of Section 610, then your verdict of guilty should so state.

Unless otherwise specifically indicated, each instruction given should be considered by you as referring separately and individually to each defendant.

Members of the jury, it requires all twelve of your number agreeing to return a verdict. I have prepared two forms of verdict which will be handed to you by the bailiff when you reach the jury room. You will use only one of these forms. You must make a separate finding as to each defendant. You will use Form A to return a verdict of either guilty or not guilty of the offense charged. Form B may be used by you only in the event you find one or more of the defendants guilty of the wilful conspiracy charged and further find that the conspiracy of which said defendant is found guilty did not contemplate a willful violation of Section 610.

* * * * *

[2,080] (Thereupon the following proceedings were had out of the hearing of the jury:)

The Court: Let the record show that the defendants, and each of them, object and except to the action of the Court in refusing to direct a verdict at the conclusion of the Government's evidence, in accordance with their motions that are lettered "A", "B", "C", and "D", and they further object and except to the action of the Court in refusing to direct a verdict of judgment of acquittal at the conclusion of all the evidence, which motions are lettered "E", "F", "G", and "H".

They reiterate the objections they heretofore made to the charge at the time it was submitted to them in Court's chambers, and they reiterate their objections to the refusal of the Court to give their refused instructions, which are letter "I" to "ZZ".

* * * * *

(To the Jury) Members of the Jury, the admonition that I have given you heretofore about not discussing this case is removed. I adjure you to discuss the case fully. You will be taken to the jury room now for your deliberation, and any communication that you want to have with the Court hereafter will be through the bailiff, who will be outside the jury room. The court will be in temporary recess.

* * * * *

**SEPARATE MOTION OF DEFENDANT PIPEFITTERS
LOCAL UNION NO. 562 FOR JUDGMENT OF AC-
QUITTAL AT THE CLOSE OF THE GOVERN-
MENT'S CASE.**

Comes now defendant Pipefitters Local Union No. 562 and at the close of the Government's case, moves the Court to withdraw the case from the jury, and to enter a judgment of acquittal in favor of this defendant, and for its grounds for this motion states:

1. The evidence introduced in this case is insufficient to sustain a conviction.

2. There is a material and prejudicial variance between the allegations in the indictment and the proof offered.

**JAMES F. NANGLE, JR.,
RICHARD L. DALY,
MURRY L. RANDALL,
NORMAN S. LONDON,**

**Attorneys for Defendant Pipefitters
Local Union No. 562.**

**SEPARATE MOTION OF DEFENDANT CALLANAN
FOR JUDGMENT OF ACQUITTAL AT THE
CLOSE OF THE GOVERNMENT'S CASE.**

Comes now defendant Lawrence L. Callanan and at the close of the Government's case, moves the Court to withdraw the case from the jury, and to enter a judgment of acquittal in favor of this defendant, and for his grounds for this motion states:

1. The evidence introduced in this case is insufficient to sustain a conviction.

2. There is a material and prejudicial variance between the allegations in the indictment and the proof offered.

RICHARD L. DALY,
7 North Seventh Street,
St. Louis, Missouri 63101,
MAin 1-1701,
Attorney for Defendant Callanan.

**SEPARATE MOTION OF DEFENDANT LAWLER FOR
JUDGMENT OF ACQUITTAL AT THE CLOSE
OF THE GOVERNMENT'S CASE.**

Comes now defendant John L. Lawler and at the close of the Government's case, moves the Court to withdraw the case from the jury, and to enter a judgment of acquittal in favor of this defendant, and for his grounds for this motion states:

1. The evidence introduced in this case is insufficient to sustain a conviction.

2. There is a material and prejudicial variance between the allegations in the indictment and the proof offered.

MURRY L. RANDALL,
506 Olive Street,
St. Louis, Missouri 63101,
MAin 1-1980,
Attorney for Defendant Lawler.

**SEPARATE MOTION OF DEFENDANT SEATON FOR
JUDGMENT OF ACQUITTAL AT THE CLOSE
OF THE GOVERNMENT'S CASE.**

Comes now defendant George Seaton and at the close of the Government's case, moves the Court to withdraw the case from the jury, and to enter a judgment of

acquittal in favor of this defendant, and for his grounds for this motion states:

1. The evidence introduced in this cause is insufficient to sustain a conviction.
2. There is a material and prejudicial variance between the allegations in the indictment and the proof offered.

NORMAN S. LONDON,
418 Olive Street,
St. Louis, Missouri 63102,
CEntral 1-8700,
Attorney for Defendant Seaton.

SEPARATE MOTION OF DEFENDANT PIPEFITTERS
LOCAL UNION NO. 562 FOR JUDGMENT OF AC-
QUITTAL AT THE CLOSE OF ALL THE EVI-
DENCE.

Comes now defendant Pipefitters Local Union No. 562 at the close of all the evidence and moves the Court to withdraw the case from the jury, and to enter a judgment of acquittal in its favor on each count of the indictment, and for its grounds for this motion states:

1. The evidence is insufficient to sustain a conviction.
2. There is a material and prejudicial variance between the allegations in the indictment and the proof offered.

JAMES F. NANGLE, JR.,
RICHARD L. DALY,
MURRY L. RANDALL,
NORMAN S. LONDON,
Attorneys for Defendant Pipefitters
Local Union No. 562.

**SEPARATE MOTION OF DEFENDANT CALLANAN
FOR JUDGMENT OF ACQUITTAL AT THE
CLOSE OF ALL THE EVIDENCE.**

Comes now defendant Lawrence L. Callanan at the close of all the evidence, and moves the Court to withdraw the case from the jury, and to enter a judgment of acquittal in his favor on each count of the indictment, and for his grounds for this motion states:

1. The evidence is insufficient to sustain a conviction.
2. There is a material and prejudicial variance between the allegations in the indictment and the proof offered.

RICHARD L. DALY,
7 North Seventh Street,
St. Louis, Missouri 63101,
MAin. 1-1701,
Attorney for Defendant Callanan.

**SEPARATE MOTION OF DEFENDANT LAWLER FOR
JUDGMENT OF ACQUITTAL AT THE CLOSE
OF ALL THE EVIDENCE.**

Comes now defendant John L. Lawler at the close of all the evidence and moves the Court to withdraw the case from the jury, and to enter a judgment of acquittal in his favor on each count of the indictment, and for his grounds for this motion states:

1. The evidence is insufficient to sustain a conviction.
2. There is a material and prejudicial variance between the allegations in the indictment and the proof offered.

MURRY L. RANDALL,
506 Olive Street,
St. Louis, Missouri 63101,
MAin 1-1980,
Attorney for Defendant Lawler.

**SEPARATE MOTION OF DEFENDANT SEATON FOR
JUDGMENT OF ACQUITTAL AT THE CLOSE
OF ALL THE EVIDENCE.**

Comes now defendant George Seaton at the close of all the evidence and moves the Court to withdraw the case from the jury, and to enter a judgment of acquittal in his favor on each count of the indictment, and for his grounds for this motion states:

1. The evidence is insufficient to sustain a conviction.
2. There is a material and prejudicial variance between allegations in the indictment and the proof offered.

NORMAN S. LONDON,
418 Olive Street,
St. Louis, Missouri 63102,
Central 1-8700,
Attorney for Defendant Seaton.

[2,082] United States of America,
Plaintiff,

vs.

[2,083] Lawrence L. Callanan,
John L. Lawler, George Seaton,
Defendants.

68 Cr 99 (3).

VERDICT.

We, the jury in the above entitled cause on the trial of the Indictment herein find as follows:

We find the defendant Pipefitters Local Union 562, guilty as charged in the indictment.

We find the defendant Lawrence L. Callanan guilty as charged in the indictment.

We find the defendant John L. Lawler guilty as charged in the indictment.

We find the defendant George Seaton guilty as charged in the indictment.

We further find that a willful violation of Section 610 of Title 18, United States Code, was not contemplated.

(Signed) ROBERT T. WEST,
Foreman.

Dated this 19 day of September, 1968.

Gentlemen of the Jury, the verdict as just read, is that your true verdict?

The Foreman: Yes, it is.

* * * * *

NOTICE OF APPEAL.

(Filed in U. S. District Court September 29, 1968.)

The parties taking the appeal are Pipefitters Local Union No. 562, Lawrence L. Callanan, John L. Lawler and George Seaton.

The judgment appealed from is the judgment and sentence in the above entitled cause which was entered by the United States District Court, Eastern District of Missouri, Eastern Division, by Judge Regan on September 27, 1968.

The Court to which the appeal is taken is the United States Court of Appeals for the Eighth Circuit.

RICHARD L. DALY,
7 North Seventh Street,
St. Louis, Missouri 63101,
MAin 1-1701,
Attorney for Defendant Callanan,

MURRY L. RANDALL,
506 Olive Street,
St. Louis, Missouri 63101,
MAin 1-1980,
Attorney for Defendant Lawler,

NORMAN S. LONDON,
418 Olive Street,
St. Louis, Missouri 63102,
CEntrol 1-8700,
Attorney for Defendant Seaton,

JAMES F. NANGLE, JR.,
406 Olive Street,
St. Louis, Missouri 63101,
CHestnut 1-6116,

MURRY L. RANDALL,
NORMAN S. LONDON,
RICHARD L. DALY,

Attorneys for Defendant Pipefitters.
Local Union No. 562.

**United States Court of Appeals
FOR THE EIGHTH CIRCUIT**

No. 19,466.

United States of America,

Appellee,

v.

Pipefitters Local Union No. 562,
etc., et al.,

Appellants.

} Appeal from the
United States Dis-
trict Court for the
Eastern District of
Missouri.

[June 8, 1970.]

Before VAN OOSTERHOUT, Chief Judge; BLACKMUN and
HEANEY, Circuit Judges.

VAN OOSTERHOUT, Chief Judge.

Defendants Pipefitters Local Union No. 562, Lawrence L. Callanan, John L. Lawler and George Seaton were tried by a jury on indictment charging them with conspiracy under 18 U.S.C.A. § 371 to violate 18 U.S.C.A. § 610 which prohibits labor organizations from making contributions and expenditures to candidates for federal offices. Each defendant was found guilty by the jury. Under instructions given, the jury determined a willful violation of § 610 was not contemplated. The union was fined \$5,000.

The individual defendants, who were officers of Local 562, were each sentenced to one year imprisonment and fined \$1,000. All defendants have taken a timely appeal from their conviction and sentence.

As grounds for reversal, all defendants urge prejudicial errors were committed by the trial court in the following respects:

I. Failure to sustain defendants' motions for acquittal made at the close of the government's case and renewed at the close of all of the evidence based upon the grounds: (1) That the evidence introduced in the case was insufficient to sustain a conviction. (2) There was a material and prejudicial variance between the allegations of the indictment and the proof offered.

II. Failure to hold that § 610 as construed and applied by the court violates rights guaranteed defendants by the First, Fifth, Sixth and Seventeenth Amendments to the Constitution of the United States.

III. Failure to hold that the provision in the jury verdict that a willful violation of § 610 was not contemplated requires an acquittal of all defendants.

We affirm the convictions for the reasons hereinafter set out.

BACKGROUND.

Section 610 to the extent here pertinent reads:

"It is unlawful for any . . . labor organization to make a contribution or expenditure in connection with any election at which Presidential and Vice Presidential electors or a Senator or Representative in, or a Delegate or Resident Commissioner to Congress are to be voted for, or in connection with any primary election or political convention or caucus held to select candidates for any of the foregoing offices. . . ."

The origin, legislative history and purpose of § 610 is discussed in detail in *United States v. C.I.O.*, 325 U.S. 106, and in *United States v. International Union*, 352 U.S. 567. It is pointed out that Congress in 1907 enacted a statute making it unlawful for any corporation to make a money contribution in connection with an election for federal office in furtherance of the public interest for free elections. Such prohibition was later extended to labor organizations and this legislation in its present form is found in § 610. With respect to corporations, the Court in *United States v. C.I.O.* states:

“This legislation seems to have been motivated by two considerations. First, the necessity for destroying the influence over elections which corporations exercised through financial contribution. Second, the feeling that corporate officials had no moral right to use corporate funds for contribution to political parties without the consent of the stockholders.” 335 U.S. 106, 113.

With respect to extending the legislation to labor organizations, the Court in the same case observes:

“Its legislative history indicates congressional belief that labor unions should then be put under the same restraints as had been imposed upon corporations. It was felt that the influence which labor unions exercised over elections through monetary expenditures should be minimized, and that it was unfair to individual union members to permit the union leadership to make contributions from general union funds to a political party which the individual member might oppose.” 335 U.S. 106, 115.

Mr. Justice Rutledge, in reviewing the legislative history of the extension of the Corrupt Practices Act to labor organizations, indicates:

“[I]n one important respect the history again is clear, namely, that the sponsors and proponents had in mind three principal objectives.

“These were: (1) To reduce what had come to be regarded in the light of recent experience as the undue and disproportionate influence of labor unions upon federal elections; (2) to preserve the purity of such elections and of official conduct ensuing from the choices made in them against the use of aggregated wealth by union as well as corporate entities; and (3) to protect union members holding political views contrary to those supported by the union from use of funds contributed by them to promote acceptance of those opposing views. Shortly, these objects may be designated as the ‘undue influence,’ ‘purity of elections,’ and ‘minority protection’ objectives. These are obviously interrelated, but not identical. And the differences as well as their combination become important for deciding the scope of the section’s coverage and its validity in specific application.” 335 U.S. 106, 134-35.

THE MOTIONS TO ACQUIT.

Defendants’ timely motions to acquit were based on two grounds: (1) A material variance between the allegations of the indictment and the proof, and (2) the insufficiency of the evidence to support the convictions. Defendants urge that the indictment was insufficiently clear with respect to the source of the funds used in the conspiracy charge. Such contentions lack merit.

The indictment is lengthy and elaborate. Sixty-one overt acts are charged. The indictment charged that the defendants established the Pipefitters Voluntary Political, Educational, Legislative, Charity and Defense Fund, hereinafter called the fund, to have the appearance of being a wholly independent entity separate from Local 562 and thereby conceal the fact that Local 562 would make contributions and expenditures in connection with certain elections. The indictment outlined defendants’ complicated scheme to conceal the true nature of their activity and concluded by

alleging that such activity amounted to an unlawful use of union funds contrary to § 610.

In *United States v. Lewis Food Co.*, 9 Cir., 366 F.2d 710, 713, the court holds, "the allegation in the indictment that the corporation made an 'expenditure' for the stated purpose, necessarily infers an allegation that general corporate funds were used."

The failure of the indictment to allege that the payments to the fund were involuntary is not fatal. The gist of the government's claim as reflected by the indictment is that the money in the fund is in truth and in fact money belonging to Local 562.¹ If such allegation is established by the evidence, the issue of whether the payment to the fund is voluntary or involuntary is not controlling.

Of course as observed by the court in its instructions, the issue of whether the payments to the fund were voluntary is relevant and material on the issue of whether the

¹ While instructions given by the court to the jury are not relevant or controlling in determining the law to be applied in ruling upon motions for acquittal, it appears extremely likely that the court would apply the law as set forth in its instructions in passing upon the motions. Included in the instructions is the following:

"You will note that Section 610 prohibits contributions by labor organizations for use in connection with an election for a federal office. It does not prohibit any person from making or agreeing to make such contributions or setting up an independent fund for such purpose separate and distinct from union funds either alone or in conjunction with others, simply because such person happens to be a member of a labor organization. That is, the statute is not violated unless the [2,070] contribution is in fact and in the final analysis made by the labor organization."

"In this case evidence was offered by the Government to the effect that funds were contributed to or on behalf of candidates for federal office, and that such funds were paid out upon checks drawn upon the Pipefitters Voluntary Political, Educational, Legislative, Charity and Defense Fund. It is necessary, therefore, that the evidence establish that the Pipefitters Voluntary Political, Educational, Legislative, Charity and Defense Fund was in fact a union fund, that the money therein was union money, and that the real contributor to the

fund is the property of Local 562. Other considerations such as the intention of the donors as to ownership and control of the fund also bear upon the issue.

We now pass to the issue of the sufficiency of the evidence to support the convictions. The evidence must be viewed in the light most favorable to the party prevailing in the jury trial, here the government. *Glasser v. United States*, 315 U.S. 60, 80. When the evidence is so viewed, we find ample evidentiary support for the jury verdict.

The essential elements of a § 610 offense are (1) contribution or expenditure, (2) by a labor organization, (3) for the purpose of active electioneering (4) in connection with an election for named federal offices described in the statute. It is virtually undisputed that elements (1), (3) and (4) are clearly established. The controversy relates to whether the contributions or expenditures were made by a labor organization. A labor organization is defined in § 610: Local 562 clearly fits the description of

candidates was the union. As to this issue, the defendants contend that the fund in question was a bona fide entity separate and apart from the Union, established by the voluntary good faith act of members of the pipefitters Local 562 and others, from which contributions to candidates were made on behalf of the persons who created the fund and not on behalf of the union. On the other hand, the Government contends that the fund was a mere artifice or device set up by the defendants and others as a part of the alleged conspiracy to give the outward appearance of being an independent and separate entity but in fact constituting a part of union funds.

* * * * *

"A great deal of evidence has been introduced on the question of whether the payments into the Pipefitters Voluntary Political, Educational, Legislative, Charity and Defense Fund by members of Local 562 and others working under its jurisdiction were voluntary or involuntary. This evidence is relevant for your consideration, along with all other facts and circumstances in evidence, in determining whether the fund is a union fund. However, the mere fact that the payments into the fund may have been made voluntarily by some or even all of the contributors thereto does not, of itself, mean that the money so paid into the fund was not union money."

a labor organization. Thus if the numerous substantial contributions made to federal office candidates were made by Local 562, the contributions were made by a labor organization. On the other hand if the voluntary fund is a separate and distinct entity and it made the contributions, no violation of § 610 would exist as the voluntary fund as a separate entity would not constitute a labor organization.

Contributions alleged to be voluntary by members of Local 562 and members of other unions working within its jurisdiction aggregating \$1,230,968 were made during the indictment period (1963-1968). The proceeds of such collections were maintained in a separate bank account of the fund. Disbursements out of the fund for aid of candidates for federal office during the indictment period aggregated \$151,412. There is substantial evidence to support a jury finding that the fund was not a bona fide separate and distinct entity but was in fact a device set up to circumvent the provisions of § 610 and that the fund constituted union money. We will not attempt to set out the voluminous evidence, much of which is conflicting, in detail. Assessments had been made for the political fund since 1949. In 1962, the assessment for the fund for members of Local 562 and those working within its jurisdiction was 50¢ per man for each day worked. Local 562 abandoned collections through assessments in 1963.

In 1962, the union launched a campaign for check off of dues by employers of its members. Originally it was contemplated, as shown by the union minutes; that the check off be for 4% of the wages paid plus dues with 1½% included in the 4% going to the fund.

The local deliberately kept its membership relatively small so that advantageous employment would be available at all times for its members. It had jurisdiction over work covering a large part of the state of Missouri. Local 562

provided a considerable amount of work for members of other locals at more favorable rates of pay than prevailed in the jurisdiction of the locals. The attorney for the union advised the union that he was fearful that if Local 562 accepted dues and assessments from non-members it would be required to accept them into membership in Local 562. He also recommended that the contribution to the fund not be collected by check off and that voluntary pledge cards for the fund be obtained from those working on Local 562 projects and that the funds be raised through voluntary contributions. Thereafter Local 562 voted to reduce the assessment from 4% to 2½% of the wages and further that no assessments be made against non-members. Signatures of non-members and members working on Local 562 projects were obtained on voluntary contribution cards under which the signers who were members of Local 562 agreed to contribute \$1.00 per 8 hour working day to the fund, with non-members agreeing to contribute \$1.50 per 8-hour day. The extra 50¢ per day for non-members was equivalent to the cancellation of the 50¢ per day assessment which was abandoned. Subsequently the contribution of non-members was raised to \$2.00 per working day.

When the assessment of members was raised in 1966 from \$1.00 to \$1.50 per day, contributions to the voluntary fund were reduced from \$1.00 to 50¢ per day leaving the total combined assessment and contribution to the voluntary fund in the same total figure as previously existed.

The non-members of Local 562 working on its projects were not charged the customary \$8.00 per month travel card assessment. However, their contribution to the fund substantially equalled the combined assessment and voluntary contribution made to the fund by members.

The contributions to the fund were generally collected regularly by the foreman on the job site in substantially the same manner in which assessments had previously

been collected. Collection sheets were provided with columns containing the names of the employees, the number of hours worked and the amount paid to the fund. The purpose of keeping the records was so that the officers would know who contributed to the fund and how much. Reasons such as sickness or vacation were placed on the report sheet with respect to persons from whom no assessment was collected for the period covered. On some reports reference is made to back assessments.

A number of foremen testified that they did not know what would happen if the contribution was not paid because all of the members working under them regularly made payments to the fund.

There is evidence that a limited number did not make a contribution to the fund and that no reprisals were taken against them. Ordinarily such failure to pay was taken up with the union officials and instructions were received by the collectors not to press for payment. There is also testimony that the people working on the projects considered their employment advantageous and felt that they had no choice except to make the contribution. It would appear to be unrealistic to believe that such a large number of workmen would make such substantial voluntary contributions to be used for political purposes unless they felt that their job security required them so to do.

The union received national recognition because of its general political contributions. The minutes of the local meeting of June 9, 1964, reflect that the union president had been introduced to President Johnson as "the representative of the most active political membership in the United States."

The fund was freely used for making payments to serve many other union purposes. We are satisfied that all of the essential elements of conspiracy charged are supported by substantial evidence.

CONSTITUTIONAL ISSUES.

Substantial and difficult problems are presented by the constitutional issues raised by the defendants. A minority of the Court in *United States v. C.I.O.*, supra, and *United States v. International Union*, supra, expressed the view that § 610 was unconstitutional. The majority by reason of its interpretation of the statute did not reach the constitutional issue. We shall treat separately the constitutional issues raised.

A. FIRST AMENDMENT.

It is clear that the First Amendment protects the freedom of association, *NAACP v. Alabama*, 357 U.S. 449, and that the activities of a labor union are within the scope of this protection. *United Mine Workers v. Illinois State Bar Ass'n*, 389 U.S. 217. Since 18 U.S.C.A. § 610 regulates the activities of a labor union, it must be evaluated in light of First Amendment principles.

Finding that particular activities are within the purview of the First Amendment does not necessarily mean that they are free from governmental regulation. The rights of association are not absolute and may be regulated by the government in certain instances. *Dennis v. United States*, 341 U.S. 494; *Garner v. Board of Public Works*, 341 U.S. 716.

In order to determine the validity of governmental regulation which touches constitutionally protected rights, the Court in *Königsberg v. State Bar of California*, 366 U.S. 36, 51, indicated that "that perforce requires an appropriate weighing of the respective interests involved." Therefore, a court must balance the interest of the government in the regulation against the interest of the individual and the organization in their freedom of association. Since the value of the freedom of association is considered

extremely high in our society, if a governmental regulation of association is to prevail against constitutional attack, the government must demonstrate a "compelling" interest in the regulation in question. See *Bridges v. California*, 314 U.S. 252; Cf: *Sherbert v. Verner*, 374 U.S. 398. Therefore, in order to determine the validity of 18 U.S.C.A. § 610, the court must find a compelling governmental interest which overrides the interest of the association in the activities prohibited. There is such a compelling interest. Since it is possible for a person to be required to join a union as a condition of employment, one of the purposes for the passage of 18 U.S.C.A. § 610 was to "protect union members holding political views contrary to those supported by the union from use of funds contributed by them to promote acceptance of those opposing views." Mr. Justice Douglas concurring in *International Association of Machinists v. Street*, 367 U.S. 740, thought this to be an extremely troublesome problem. He said:

"[M]embership in a group cannot be conditioned on the individual's acceptance of the group's philosophy. Otherwise, First Amendment rights are required to be exchanged for the group's attitude, philosophy or politics. I do not see how this is permissible under the Constitution." 367 U.S. 740, 777.

Congress in passing 18 U.S.C.A. § 610 was attempting to protect the individual union member's right to his own political views and the right to support or not to support them through money contributions. In light of the substantial interest each individual has in his own political activities, it follows that Congress in passing the legislation was responding to a compelling interest.

Even when it is found that the government has acted to protect a compelling interest, the First Amendment requires further analysis. To this point the Court in *Shelton v. Tucker*, 364 U.S. 479, 488, said:

"In a series of decisions this Court has held that, even though the governmental purpose be legitimate and substantial, that purpose cannot be pursued by means that broadly stifle fundamental personal liberties when the end can be narrowly achieved. The breadth of legislative abridgement must be viewed in light of less drastic means for achieving the same basic purpose."

The issue under this analysis is whether 18 U.S.C.A. § 610 narrowly achieves the legitimate Congressional purpose without needlessly treading on constitutional rights.

When § 610 is given the interpretation previously discussed in this opinion, it does not go beyond protecting the valid governmental interest and infringe unnecessarily on constitutional rights. Separate voluntary political associations by union members are not in any way proscribed by the statute. Therefore, § 610 is not unconstitutional under the First Amendment.

B. VAGUENESS.

It is of course necessary to evaluate § 610 in relation to the concept of constitutional vagueness. This principle was set out in *United States v. Harriss*, 347 U.S. 612, 617, where the Court said:

"The constitutional requirement of definiteness is violated by a criminal statute that fails to give a person of ordinary intelligence fair notice that his contemplated conduct is forbidden by the statute. The underlying principle is that no man shall be held criminally responsible for conduct which he could not reasonably understand to be proscribed."

The Court in *Cramp v. Board of Public Instruction*, 368 U.S. 278, 287, added:

"The vice of unconstitutional vagueness is further aggravated where, . . . the statute in question operates to inhibit the exercise of individual freedoms affirmatively protected by the Constitution."

The vagueness problem therefore is whether a person could know from reading § 610 what is proscribed by its terms.

One matter which was previously pointed out was that substance rather than form governs the question of whether a particular contribution or expenditure came from a "labor organization." Such approach requires a court or jury to evaluate the totality of the circumstances and determine who in fact made the contribution or expenditure—a separate and distinct organization or a § 610 labor organization. The legality of the conduct of a labor organization making contributions or expenditures is not difficult to determine. A labor organization can predict what its officials and employees may do by evaluating the organization's duty under § 610 and not allow its officials and employees to engage in conduct which is inconsistent with this duty.

C. DUE PROCESS—EQUAL PROTECTION.

The due process clause of the Fifth Amendment includes within it a concept of equal protection. *Bolling v. Sharpe*, 347 U.S. 497. Therefore, the federal government, as well as the states, is not allowed to pass legislation which makes arbitrary classifications. The appellants argue that § 610 makes an arbitrary classification because it prevents members of the working class from political action whereas members of richer classes are not so prohibited, even though banks and corporations are also prohibited from making political contributions and expenditures. The argument is that the corporate executives personally make political contributions which have an impact on the political process, and § 610 prohibits members of the working class from aggregating their funds to have a similar impact. The problem with this argument is that § 610 does not prohibit working men from such activity. Section

610 only prohibits them from being forced into it. Therefore, § 610 does not create a classification which is subject to an equal protection claim.

D. RIGHT TO VOTE FOR SENATORS AND REPRESENTATIVES.

It has been argued that § 610 abridges the right to vote for Congressmen and Senators. This argument is based on the assumption that § 610 prohibits any labor group from associating and engaging in political activities. As previously pointed out this is not the proper construction of § 610. When § 610 is given the interpretation as described in this opinion, this argument totally lacks merit.

EFFECT OF JURY FINDING THAT A WILLFUL VIOLATION OF § 610 WAS NOT CONTEMPLATED.

The signed jury verdict Form B returned by the jury found each defendant guilty as charged in the indictment and then went on to say, "We further find that a willful violation of Section 610 of Title 18, United States Code, was not contemplated."

Defendants urge that the quoted sentence requires an acquittal on the conspiracy charge. We do not agree.

Verdict Form B together with Form A finding the defendants guilty without containing the sentence hereinabove quoted were submitted to the court under an instruction that "Form B may be used by you only in the event you find one or more of the defendants guilty of the willful conspiracy charged and further find that the conspiracy of which said defendant is found guilty did not contemplate a willful violation of § 610."

Section 610 carries a penalty of a fine not to exceed \$5000 for a corporation or labor organization and not to

exceed \$1000 or one-year imprisonment for individual defendants. The statute further provides that if the violation was willful the penalty is a fine up to \$10,000 and imprisonment up to two years. Eighteen U.S.C.A. § 371 under which defendants were tried and convicted contains a provision that if the offense, the commission of which is the object of the conspiracy is a misdemeanor only, the punishment shall not exceed the maximum imposed for the misdemeanor. Eighteen U.S.C.A. § 1 defines a misdemeanor as an offense carrying a penalty of one year or less imprisonment. Thus it would appear that the clear purpose of the instruction and verdict Form B was to advise the court whether defendants were guilty of conspiracy to commit a misdemeanor or a felony for the purpose of guiding the court in assessing a permissible penalty.

The court in its instructions properly set forth the elements of the conspiracy including the necessity of proving that each defendant knowingly and willfully participated in the conspiracy to violate § 610. Included in the instructions is the following:

“The crime charged in this case requires proof of specific intent before a defendant can be convicted. Specific intent, as the term implies, means more than the general intent to commit the act. To establish specific intent the Government must prove that the defendant knowingly, willfully and purposely did an act which the law forbids. Such intent may be determined from all the facts and circumstances shown by the evidence.

.

“An act is done ‘willfully’ if done voluntarily and purposely and with the specific intent to do that which the law forbids; that is to say, with bad purpose either to disobey or to disregard the law.”

The necessity of proving willfulness as an element of the conspiracy is repeated in various places in the instructions.

When the verdict is read in the light of the applicable law and the court's instructions, we are satisfied that the jury by its verdict intended to and in fact did convict the defendants of the conspiracy charged.

It is also of some significance that the defendants took no exception to verdict Form B or the instructions relating to its submission. Defendants were in no way prejudiced by the submission of Form B. The jury finding in the last sentence of the form in reality amounted only to a finding that the conspiracy related to a misdemeanor rather than a felony and defendants were thus benefited by such finding by being exposed only to the lesser sentence provided in § 371 for conspiracy, the object of which is a misdemeanor.

Defendants have made no attack on this appeal upon any instructions given by the trial court or to the evidentiary rulings. We conclude that the defendants have had a fair trial and that they have failed to establish that the court has committed any prejudicial error.

The judgments appealed from are affirmed.

HEANEY, Circuit Judge, dissents and reserves the right to file a dissenting opinion setting out his views.

A true copy.

Attest:

Clerk, U. S. Court of Appeals, Eighth Circuit.

**United States Court of Appeals
FOR THE EIGHTH CIRCUIT**

No. 19,466.

United States of America,

Appellee.

v.

Pipefitters Local Union No. 562,
etc., et al;

Appellants.

} Appeal from the
United States Dis-
trict Court for the
Eastern District of
Missouri.

[July 17, 1970.]

Before VAN OOSTERHOUT, Chief Judge; BLACKMUN and
HEANEY, Circuit Judges.

HEANEY, Circuit Judge, dissenting.

While I share the view of the majority that the indictment was not fatally defective, I would reverse and reman to the trial court with instructions to it to grant the defendants a new trial. See, *United States v. Lewis Food Company*, 366 F.2d 710 (9th Cir. 1966).¹ At this new

¹ "All that is required of an indictment is that it be a plain, concise and definite written statement of essential facts constituting the offense charged. Rule 7(c), Federal Rules of Crim-

trial, the principal question would be whether, in the light of all the evidence, the contributions to the federal candidates were made from funds which could fairly be said to have been voluntarily contributed by members and non-members with knowledge of the fact that all or part of their contribution would be used for political purposes. See, *United States v. International Union*, 352 U.S. 567, 592 (1957); 93 Cong. Rec. 6437-6440 (1947).

There is evidence in this record indicating that the contributions to the Pipefitters' fund were, in the above sense, knowingly and voluntarily made. There is also substantial evidence to the contrary. But the jury was specifically instructed that it could find the defendants guilty even if it believed all of the contributions were voluntarily made.² Such an instruction was, in my view, erroneous.

The government acknowledges in its brief that a union acting through its officers, agents and members may form

inal Procedure; *Rood v. United States*, 8 Cir., 340 F.2d 506, 510. With respect to the use of general corporate funds this indictment meets these requirements. Entry of the plea of not guilty, therefore, gave rise to a question of fact as to the source of the corporate funds. When the Supreme Court, in the *Auto Workers* case, asked (352 U.S. at 592, 77 S.Ct. at 542): "[W]as the broadcast paid for out of the general dues of the union membership or may the funds be fairly said to have been obtained on a 'voluntary basis'?" The Court was referring to questions of fact which must be resolved at the trial level and was not referring to any inadequacies in the indictment."

United States v. Lewis Food Company, 366 F.2d 710, 713 (9th Cir. 1966).

² "A great deal of evidence has been introduced on the question of whether the payments into the Pipefitters Voluntary Political, Educational, Legislative, Charity and Defense Fund by members of Local 562 and others working under its jurisdiction were voluntary or involuntary. This evidence is relevant for your consideration, along with all other facts and circumstances in evidence, in determining whether the fund is a union fund. However, the mere fact that the payments into the fund may have been made voluntarily by some or even all of the contributors thereto does not, of itself, mean that the money so paid into the fund was not union money."

a political organization parallel to the union and use union personnel to solicit and spend direct voluntary contributions for federal elections. It concedes that COPE and countless other political action groups have been so organized and operated. The difficulty with this acknowledgment is that it comes too late. The trial court, although requested to, refused to give an instruction embodying this concept. Indeed, the thrust of its direction was that the very participation of union officers and agents in the organization and operation of the political fund was evidence of impropriety. Compare, *Machinists Union v. Street*, 376 U.S. 70 (1961).

The government contends in its brief that the contributions to the fund were in fact assessments, were in fact part of the general dues' structure and were in fact involuntarily made. These may indeed be the facts and if the jury had made such a finding, a violation of Section 610 would have been made out. But again, this the jury was not requested to so find. It was instructed to answer the broader question of whether the contributed funds constituted a part of the Union funds. Nineteen facts and circumstances were listed as bearing on the answer to this question.³ Some of the facts and circumstances were rele-

³ "1. Whether or not payments to the fund were routinely made at regular intervals at job sites,

"2. Whether or not payments to the fund were routinely collected by union stewards, foremen, area foremen, general foremen, or other agents of the union,

"3. Whether or not the payment to the fund was determined by a formula based upon the amount of hours or overtime hours worked upon a job under the supervision of the union,

"4. Whether or not payments to the fund were at one rate for 562 members and at a different rate for members of other unions,

"5. Whether or not payments to the fund began, continued and terminated with employment on a job under the jurisdiction of the union,

"6. Whether or not monies of the fund were used to provide benefits to union members in their capacity as members,

vant to the issue of knowledge and voluntariness and others, irrelevant. One example of the latter was the instruction that the jury could consider whether the payments to the fund were routinely collected by the Union Stewards and agents of the Union at the job site.

A The government further contends that the political funds were spent by the individual defendants arbitrarily and without consultation with the contributors. There is

"7. Whether or not payments to the fund by members of other unions were in lieu of payments to the union in the form of travel card dues in the amount of eight dollars per month,

"8. Whether or not monies of the fund were used in part to promote activities properly permitted to the union pursuant to Section 2.05 of its Constitution and by-laws,

"9. Whether or not payments to the fund were made by those affiliated with the Union to the general exclusion of other classes of persons or organizations,

"10. Whether or not contributions to the fund were required as a condition of employment or continued employment of membership in Local 562,

"11. Whether or not the individuals who contributed to said fund signed a voluntary contribution agreement,

"12. Whether or not the contributions to said fund were made voluntarily or involuntarily,

"13. Whether or not the monies contributed to said fund were kept separate and distinct from the funds of Local 562,

"14. Whether or not some persons who worked under the jurisdiction of Local 562 did not contribute to said fund,

"15. Whether or not the monies of said fund were used in part to promote activities which were prohibited to Local 562 by its Constitution and By-Laws,

"16. Whether or not said fund was established and maintained pursuant to the advice of counsel,

"17. Whether or not the monies of said fund were reported to the Department of Labor on the LM-2 forms, which required the reporting of monies of Local 562,

"18. Whether or not expenditures from the fund were under the control of the union and its officers,

"19. Whether or not records used in the collection of the payments to the fund are similar to those employed from time to time by the union in the collection of its regular dues and assessments."

some evidence in the record to support this contention. Although such a practice is of questionable legality and is undesirable and undemocratic, it constitutes no violation of Section 610.

The argument is also made by the government that at least one official of the fund diverted a portion of the funds collected for political purposes to his personal use. While this act may also have been illegal and reprehensible, it was not a violation of the statute.

Finally, the government contends on appeal that the fund was used to provide benefits to some of the members of the Union. There is again evidence in the record to support this contention, but the fact of the matter is that the fund was established for educational, legislative, charitable and defense as well as political purposes. And as I read Section 610, there is nothing in it which prohibits a union, its officers and agents from soliciting voluntary contributions for political and other purposes so long as those contributing know that all or part of the funds will be used in support of political candidates.

Nothing I have said in this opinion should be taken to indicate that a union or its officers and agents can evade the prohibitions of Section 610 by obtaining contribution cards from contributors indicating that the contributions were voluntarily made for political purposes. The test is whether the contributions are, in fact so made.

Because I would remand for a new trial, I find it unnecessary to pass on the First Amendment validity of Section 610. This issue can be reached if the defendants are convicted under proper instructions.

I likewise express no view on the question of whether the jury's finding that a willful violation of Section 610 was not contemplated by the defendants required a re-

versal on the conspiracy charge. I am confident that on retrial, the verdict forms would eliminate this ambiguity.

A true copy.

Attest:

Clerk, U. S. Court of Appeals, Eighth Circuit.

Area Code (314)
MA 1-1980

Murry L. Randall
Attorney
Suite 802—506 Olive St.
St. Louis, Mo. 63101

August 26, 1970

Mr. Robert C. Tucker
Clerk, U.S. Court of Appeals
for the 8th Circuit
Federal Building
12th and Market Streets
St. Louis, Missouri 63101

Re: No. 19466
U. S. A., Appellee

v.

Pipefitters Local Union
No. 562, etc., et al.,
Appellants

Dear Mr. Tucker:

The appellants hereby request permission to file a supplemental brief in the above case in connection with the rehearing of the case by the court en banc. It is not our intention to rebrief the issues covered in our original brief but rather to deal supplementally with the issue considered by the dissent in the division decision. We would also

request until Friday, September 18, 1970, for time to file such supplemental brief.

Yours very truly,

/s/ Murry L. Randall
Murry L. Randall

MLR:mg

cc—Mr. Daniel Bartlett, Jr.
U. S. Attorney
Mr. Edgar M. Brown
Attorney, Criminal Division
Department of Justice

United States Court of Appeals
For the Eighth Circuit
St. Louis, Mo. 63101

September 10, 1970

Robert C. Tucker, Clerk

Mr. Murry L. Randall
506 Olive Street
St. Louis, Missouri 63101

Mr. James F. Nangle, Jr.
408 Olive Street
St. Louis, Missouri 63101

Mr. Richard L. Daly
7 North Seventh Street
St. Louis, Missouri 63101

Hon. Daniel Bartlett, Jr.
United States Attorney
St. Louis, Missouri

Mr. Norman S. London
418 Olive Street
St. Louis, Missouri 63101

Mr. Edgar N. Brown, Attorney
Department of Justice
Washington, D. C. 20530

Re: No. 19466. United States v. Pipefitters Local
Union No. 562, etc., et al.

Dear Sirs:

Reference is made to the Court's order of August 19, 1970, vacating our previous judgment and reinstating the

case on our calendar. I am directed by the Court to inform counsel that this appeal is to be submitted to the Court en banc on Wednesday, October 14, 1970, at 9 a.m.

Counsel for appellants may have to and including September 22, 1970, in which to file any additional briefs thought appropriate and counsel for appellee, United States, may have to and including October 1, 1970, in which to file additional brief.

Any subsequent briefs may be in typewritten form on lettersize paper and fastened in the left margin. I will need an original and seven copies of typewritten briefs which should, of course, be served on opposing counsel.

Very truly yours,

Robert C. Tucker,

Clerk

RCT;lp

**United States Court of Appeals
FOR THE EIGHTH CIRCUIT**

No. 19,466.

United States of America,

Appellee,

v.

Pipefitters Local Union No. 562,
etc., et al.,

Appellants.

Appeal from the
United States Dis-
trict Court for the
Eastern District of
Missouri Upon Re-
hearing in Banc.

[November 24, 1970.]

Before MATTHES, Chief Judge; VAN OOSTERHOUT, MEHAFFY,
GIBSON, LAY, HEANEY and BRIGHT, Circuit Judges.

PER CURIAM.

On June 8, 1970, the conviction of Pipefitters Local Union No. 562, Lawrence L. Callanan, John L. Lawler and George Seaton on a charge of conspiracy under 18 U.S.C.A. § 371 to violate 18 U.S.C.A. § 610, which makes it unlawful for a labor organization to make a contribution or expenditure in connection with any election to federal office, was affirmed by a panel of this court consisting of Judges Van Oosterhout, Blackmun and Heaney. Judge Heaney filed a dissent. The opinion is reported at ... F.2d

Thereafter on August 19, 1970, a rehearing in banc was granted by a majority vote of the active judges of this court and the judgment affirming the conviction was vacated and set aside. The court in banc on October 14, 1970, heard this case.

The judgments of conviction and sentences imposed are affirmed for the reasons set out in the panel majority opinion filed June 8, 1970. Judgment shall be entered accordingly. Affirmed.

MATTHES, Chief Judge, with whom Judges VAN OOSTERHOUT, MEHAFFY and GIBSON join, concurring.

I join in the affirmance of the judgment of conviction. The course ^{was} traveled by this appeal in this court, as a result of my brother Heaney's dissenting opinion, motivates me to express my views in regard to procedural aspects of an appeal in the hope that this court, whether sitting en banc or as a panel, hereafter will adhere to what I regard to be deeply entrenched principles applicable to the consideration and disposition of cases by courts of appeals.

From the outset of this case appellants challenged the constitutionality of 18 U.S.C § 610 and sought dismissal of the indictment on that ground. The validity of the statute was a live issue throughout the trial. Additionally, at trial appellants requested an instruction submitting the issue of voluntariness, and objected to the instruction which made reference to this question. See Footnote 2, Judge Heaney's dissenting opinion, reported at ... F.2d ... (8th Cir. 1970). Thus, there can be no doubt that appellants laid the proper foundation in the district court for challenging on appeal the propriety of the submission of the case to the jury. But appellants, represented by a battery of retained counsel, experienced and skilled in the defense of criminal cases, on appeal abandoned all errors

asserted during the trial and elected to proceed in this court by presenting only issues for review designed to bring about an outright reversal and discharge of the appellants.

Appellants' initial exhaustive brief, consisting of 98 pages, stands as irrefutable evidence that they were consciously and purposefully foregoing any relief on the ground of trial irregularities. Manifestly, they were familiar with the provisions of Rule 28(a), Federal Rules of Appellate Procedure, relating to the contents of the brief of an appellant, and included in their brief a "Statement Of Issues Presented For Review." These issues summarized were:

I. The indictment failed to allege an offense under 18 U.S.C. § 610;

II. Section 610 is unconstitutional because it abridged appellants' and all union members First Amendment rights;

III. Section 610 is unconstitutional because of vagueness;

IV. Section 610 deprives unions and its members of liberty and property without due process, in violation of the Fifth Amendment;

V. Section 610, as construed and applied by the district court, unlawfully abridges the rights of appellants to vote and to choose their senators and representatives in Congress as guaranteed by Article I, Section 2 and the Seventeenth Amendment to the Constitution;

VI. The verdict of the jury negating a willful violation of § 610 required an acquittal on the conspiracy charge.

In the expansive development of the foregoing issues in the argument portion of appellants' brief, there is no hint or suggestion of error in giving or rejecting instructions.

And to remove any doubt as to the precise relief sought by appellants in this court they concluded their brief with this statement:

"CONCLUSION.

For each of the reasons stated herein above, we respectfully submit that the judgment below should be reversed. Each of said reasons requires a reversal without a new trial, and no request is made for a new trial. The relief sought, and impelled by said reasons, is a reversal and discharge of the defendants."

The majority of the original panel, which affirmed, squarely met and considered the issues presented by appellants. But, notwithstanding the obvious, namely, that appellants had deliberately and consciously elected to abandon and waive any and all claims of prejudicial trial errors, my brother Heaney, sua sponte, injected an issue foreign to appellants' brief, faulted the district court for not properly instructing the jury as to whether the contributions to candidates had been voluntarily made, and voted to remand for another trial.

The rules designed to govern appellate procedure clearly delineated in the Federal Rules of Appellate Procedure, and sanctioned by many decisions, convinces me that a court of appeals should confine its review to the issues which an appellant properly raises and presents in his brief. Certainly, the reviewing court should not assume the role of an advocate and engage in the practice of ferreting out errors deliberately and consciously abandoned by an appellant, in order to grant relief not asked for, but in fact specifically disclaimed. Such gratuitous procedure by the reviewing court does not, in my view, comport with the proper and orderly administration of justice.

The salutary purpose of Rule 28(a)(2), Federal Rules of Appellate Procedure, providing that the brief of an

appellant shall contain "[a] statement of the issues presented for review"¹ and of pre-1968 local rules of this court, has been spelled out in meaningful language. This court, speaking through Judge Kimbrough Stone, stated, "[t]he purpose of the rule is to definitely and separately point out the errors complained of in order to clearly define and confine the issues on appeal." (Emphasis supplied). *New York Casualty Co. v. Young Men's C. Assn.*, 119 F.2d 387, 389 (8th Cir. 1941); *Accord, Cohen v. United States*, 142 F.2d 861, 863 (8th Cir. 1944); *Turner County S.D. v. Miller*, 170 F.2d 820, 828 (8th Cir. 1948);² *Mogis v. Lyman-Richey Sand & Gravel Corp.*, 189 F.2d 130, 133;³ *Chain Institute v. Federal Trade Commission*, 246 F.2d 231, 235 (8th Cir. 1957); *Bell v. United States*, 251 F.2d 490, 493-94 (8th Cir. 1958).⁴ In *McIntosh v. United States*, 362 F. 2d 636 (8th Cir. 1966), Judge Blackmun, now an Associate Justice of the Supreme Court, reiterated that specifications of error not urged in brief or appeal are abandoned. Finally, in *Smith v. American Guild of Variety Artists*, 368 F. 2d 511, 514 (8th Cir. 1966), Judge Van Oosterhout again recognized the rule and supported the court's refusal to consider a point not raised or briefed with numerous citations. But see *Laclede Gas Co. v. N.L. R.B.*, ... F.2d ... (8th Cir. 1970),⁵ where Judges Heaney and Lay remanded the case to the National Labor Relations Board for consideration of an issue not raised on appeal. Judge Van Oosterhout dissented on the ground

¹ The Federal Rules of Appellate Procedure became effective July 1, 1968.

² This case holds that an unargued assertion of error is waived.

³ This case stands for the proposition that contentions of error in the trial court not presented on appeal will be considered as having been abandoned.

⁴ In the *Bell* case, Judge Van Oosterhout cites numerous cases supporting the rule.

⁵ This case did not present any constitutional issues.

that since the issue was not raised the cause should not be remanded.

I am not unmindful that the United States Supreme Court has established the principle that "[i]f two questions are raised, one of non-constitutional and the other of constitutional nature, and a decision of the non-constitutional question would make unnecessary a decision of the constitutional question, the former will be decided." *Alma Motors Co. v. Timken-Detroit Axle Co.*, 329 U.S. 129, 136, 67 S.Ct. 231, 91 L.ed. 128 (1946); *Ashwander v. Tennessee Valley Authority*, 297 U.S. 288, 347 (Brandeis, J., concurring); *Clay v. Sun Insurance Office*, 363 U.S. 207 (1959).⁶ Nor am I unaware of the practice of the Supreme Court of refusing to decide constitutional questions when other grounds of decision can be found in the record, whether or not they have been properly raised before the court by the parties. *Neese v. Southern Ry.*, 350 U.S. 77 (1955); *Communist Party of U.S. v. Subversive Activities Control Bd.*, 367 U.S. 1, 119-20 (1961) (Douglas, J., dissenting).

But, notwithstanding this principle, and with due deference to the teachings of the Supreme Court, the conclusion is inescapable that the practice and procedure in the United States courts of appeals are governed by the Federal Rules of Appellate Procedure.

It is known generally by the federal bench and the members of the legal profession that for a number of years many judges, lawyers and legal scholars recognized a compelling need for uniform rules to govern the practice and procedure in the United States court of appeals. The Committee on Rules of Practice and Procedure of the

⁶ In *Clay*, Justice Black states that the principle has never been made a rule and elevated to a position of absoluteness but its application is merely discretionary, to be used under the proper circumstances. 363 U.S. at 222-26 (dissenting opinion).

Judicial Conference of the United States, after lengthy, responsible and deliberate study and consideration, culminated its efforts, and on December 4, 1967, the Supreme Court of the United States, by appropriate order, adopted the Federal Rules of Appellate Procedure. The Supreme Court, in its order of adoption, provided that these rules are to govern the practice in appeals to United States courts of appeals from the United States district courts, and the review of the United States courts of appeals of decisions of specified lower federal agencies. Rule 1 provides that "these rules govern practice in appeals to United States courts of appeals from the United States district courts and the Tax Court of the United States;"

Thus, the conclusion is inescapable that the Supreme Court has decreed through adoption of the rules that all appeals in the courts of appeals are to be governed by the provisions of the Federal Rules of Appellate Procedure. These rules are easily understood. They mean what they say. They are binding upon every judge of every court of appeals and should be adhered to, not ignored. If courts of appeals are permitted to engage in fashioning remedies according to the dictates of the judges and contrary to the guidelines enunciated in the rules, one of the objectives so long sought and finally achieved—*uniformity of practice and procedure*—will effectively be scrapped.

HEANEY, Circuit Judge, dissenting.

While I share the view of the majority that the indictment was not fatally defective, I would reverse and remand to the trial court with instructions to it to grant the defendants a new trial. See, *United States v. Lewis Food Company*, 366 F.2d 710 (9th Cir. 1966).¹ At this

¹ "All that is required of an indictment is that it be a plain, concise and definite written statement of essential facts con-

new trial, the principal question would be whether, in the light of all the evidence, the contributions to the federal candidates were made from funds which could fairly be said to have been voluntarily contributed by members and nonmembers with knowledge of the fact that all or part of their contributions would be used for political purposes. See, *United States v. International Union*, 352 U.S. 567, 592 (1957); 93 Cong. Rec. 6437-6440 (1947).

There is evidence in this record indicating that the contributions to the Pipefitters' fund were, in the above sense, knowingly and voluntarily made. There is also substantial evidence to the contrary. But the jury was specifically instructed that it could find the defendants guilty even if it believed all of the contributions were voluntarily made.² Such an instruction was, in my view, erroneous.

stituting the offense charged. Rule 7(c), Federal Rules of Criminal Procedure; *Rood v. United States*, 8 Cir., 340 F.2d 506, 510. With respect to the use of general corporate funds this indictment meets these requirements. Entry of the plea of not guilty, therefore, gave rise to a question of fact as to the source of the corporate funds. When the Supreme Court, in the *Auto Workers* case, asked (352 U.S. at 592, 77 S.Ct. at 542): "[W]as the broadcast paid for out of the general dues of the union membership or may the funds be fairly said to have been obtained on a voluntary basis?" The Court was referring to questions of fact which must be resolved at the trial level and was not referring to any inadequacies in the indictment."

United States v. Lewis Food Company, 366 F.2d 710, 713 (9th Cir., 1966).

² "A great deal of evidence has been introduced on the question of whether the payments into the Pipefitters Voluntary Political, Educational, Legislative, Charity and Defense Fund by members of Local 562 and others working under its jurisdiction were voluntary or involuntary. This evidence is relevant for your consideration, along with all other facts and circumstances in evidence, in determining whether the fund is a union fund. However, the mere fact that the payments into the fund may have been made voluntarily by some or even all of the contributors thereto does not, of itself, mean that the money so paid into the fund was not union money."

The government acknowledges in its brief that a union acting through its officers, agents and members may form a political organization parallel to the union and use union personnel to solicit and spend direct voluntary contributions for federal elections. It concedes that COPE and countless other political action groups have been so organized and operated. The difficulty with this acknowledgement is that it comes too late. The trial court, although requested to, refused to give an instruction embodying this concept. Indeed, the thrust of its direction was that the very participation of union officers and agents in the organization and operation of the political fund was evidence of impropriety. Compare, *Machinists Union v. Street*, 376 U.S. 70 (1961).

The government contends in its brief that the contributions to the fund were in fact assessments, were in fact part of the general dues' structure and were in fact involuntarily made. These may indeed be the facts and if the jury had made such a finding, a violation of Section 610 would have been made out. But again, this the jury was not requested to so find. It was instructed to answer the broader question of whether the contributed funds constituted a part of the Union funds. Nineteen facts and circumstances were listed as bearing on the answer to this question.³ Some of the facts and circumstances

³ "1. Whether or not payments to the fund were routinely made at regular intervals at job sites,

"2. Whether or not payments to the fund were routinely collected by union stewards, foremen, area foremen, general foremen, or other agents of the union,

"3. Whether or not the payment to the fund was determined by a formula based upon the amount of hours or overtime hours worked upon a job under the supervision of the union,

"4. Whether or not payments to the fund were at one rate for 562 members and at a different rate for members of other unions,

"5. Whether or not payments to the fund began, continued and terminated with employment on a job under the jurisdiction of the union,

were relevant to the issue of knowledge and voluntariness and others, irrelevant. One example of the latter was the instruction that the jury could consider whether the payments to the fund were routinely collected by the Union Stewards and agents of the Union at the job site.

"6. Whether or not monies of the fund were used to provide benefits to union members in their capacity as members,

"7. Whether or not payments to the fund by members of other unions were in lieu of payments to the union in the form of travel card dues in the amount of eight dollars per month,

"8. Whether or not monies of the fund were used in part to promote activities properly permitted to the union pursuant to Section 2.05 of its Constitution and by-laws,

"9. Whether or not payments to the fund were made by those affiliated with the union to the general exclusion of other classes of persons or organizations,

"10. Whether or not contributions to the fund were required as a condition of employment or continued employment of membership in Local 562,

"11. Whether or not the individuals who contributed to said fund signed a voluntary contribution agreement,

"12. Whether or not the contributions to said fund were made voluntarily or involuntarily,

"13. Whether or not the monies contributed to said fund were kept separate and distinct from the funds of Local 562,

"14. Whether or not some persons who worked under the jurisdiction of Local 562 did not contribute to said fund,

"15. Whether or not the monies of said fund were used in part to promote activities which were prohibited to Local 562 by its Constitution and By-Laws,

"16. Whether or not said fund was established and maintained pursuant to the advice of counsel,

"17. Whether or not the monies of said fund were reported to the Department of Labor on the LM-2 forms, which required the reporting of monies of Local 562,

"18. Whether or not expenditures from the fund were under the control of the union and its officers,

"19. Whether or not records used in the collection of the payments to the fund are similar to those employed from time to time by the union in the collection of its regular dues and assessments."

The government further contends that the political funds were spent by the individual defendants arbitrarily and without consultation with the contributors. There is some evidence in the record to support this contention. Although such a practice is of questionable legality and is undesirable and undemocratic, it constitutes no violation of Section 610.

The argument is also made by the government that at least one official of the fund diverted a portion of the funds collected for political purposes to his personal use. While this act may also have been illegal and reprehensible, it was not a violation of the statute.

Finally, the government contends on appeal that the fund was used to provide benefits to some of the members of the Union. There is again evidence in the record to support this contention, but the fact of the matter is that the fund was established for educational, legislative, charitable and defense as well as political purposes. And as I read Section 610, there is nothing in it which prohibits a union, its officers and agents from soliciting voluntary contributions for political and other purposes so long as those contributing know that all or part of the funds will be used in support of political candidates.

Nothing I have said in this opinion should be taken to indicate that a union or its officers and agents can evade the prohibitions of Section 610 by obtaining contribution cards from contributors indicating that the contributions were voluntarily made for political purposes. The test is whether the contributions are in fact so made.

It has been and is my opinion that 18 U.S.C. §610 is clearly unconstitutional if construed as the majority opinion requires. I am equally convinced, however, that the constitutionality of the statute should not be decided until a conviction is obtained under proper instructions.

On two separate occasions in the last twenty-five years, the Supreme Court has been asked to decide the constitutionality of §610. It has declined to do so on both occasions. In *United States v. C.I.O.*, 335 U.S. 106 (1948), the defendants were indicted under the statute for activities related to the publication and distribution of their weekly union periodical. The District Court dismissed the indictment, holding the statute to be an unconstitutional impairment of First Amendment rights. The government appealed the District Court's ruling under the Criminal Appeals Act, 18 U.S.C.A. §682. On appeal, both sides argued the constitutionality of the act. The Supreme Court, however, affirmed the dismissal of the indictment on the grounds, raised *sua sponte*, that the indictment did not charge an offense within the scope of the statute. The majority opinion noted the parties' preoccupation with the constitutional question, but stated:

"We do not admit any duty in this Court to pass upon such a contention on an appeal under the Criminal Appeals Act except in cases of logical necessity."

Id. at 110.

Justice Frankfurter, in a concurring opinion, was even more circumspect about deciding the case. He noted, first, Chief Justice Marshall's observation that:

"No questions can be brought before a judicial tribunal of greater delicacy than those which involve the constitutionality of a legislative act. If they become indispensably necessary to the case, the court must meet and decide them; but if the case may be determined on other points, a just respect for the legislature requires that the obligation of its laws should not be unnecessarily and wantonly assailed." (Citation omitted.)

Id. at 125.

Frankfurter went on to argue that the entire case was not ripe for adjudication, concluding that:

"I cannot escape the conclusion that in a natural eagerness to elicit from this Court a decision at the earliest possible moment, each side was at least unwittingly the ally of the other in bringing before this Court far-reaching questions of constitutionality under circumstances which all the best teachings of this Court admonish us not to entertain.

"But since my brethren find that the case calls for adjudication, I join in the Court's opinion. I do so because of another rule of constitutional adjudication which requires us to give a statute an allowable construction that fairly avoids a constitutional issue."

Id. at 129.

Nine years later, in *United States v. International Union, supra*, the Supreme Court was, for the second time, asked to decide the constitutionality of §610. There, the Court was again faced with an appeal from a District Court's dismissal of an indictment charging union violation of §610. The District Court had held that the indictment did not charge an offense under the statute and, therefore, did not rule on the constitutional questions. A careful study of legislative history of §610 convinced the Court that the acts charged in the indictment were within the prescriptions of the statute.

The Court, per Justice Frankfurter, then faced the Union's contention that:

"* * * [I]f * * * [the statute] * * * embraces the activity alleged in the indictment, it offends several rights guaranteed by the Constitution."

Justice Frankfurter declined to answer this contention, responding:

"* * * Once more we are confronted with the duty of being mindful of the conditions under which we may enter upon the delicate process of constitutional adjudication.

"The impressive lesson of history confirms the wisdom of the repeated enunciation, the variously expressed admonition, of self-imposed inhibition against passing on the validity of an Act of Congress 'unless absolutely necessary to a decision of the case.' Observance of this principle makes for the minimum tension within our democratic political system where 'scarcely any become, sooner or later, a subject of judicial debate.'

* * * * *

"Refusal to anticipate constitutional questions is peculiarly appropriate in the circumstances of this case. First of all, these questions come to us unilluminated by the consideration of a single judge—we are asked to decide them in the first instance. * * * *Finally by remanding the case for trial, it may well be that the Court will not be called upon to pass on the questions now raised.* * * *

"Counsel are prone to shape litigation, so far as it is within their control, in order to secure comprehensive rulings. This is true both of counsel for defendants and for the government. Such a desire on their part is not difficult to appreciate. But the Court has its responsibility. Matter now buried under abstract constitutional issues may, by the elucidation of a trial, be brought to the surface, and in the outcome constitutional questions may disappear." (Citations omitted and emphasis added.)

Id. at 590-592.

In spite of the Supreme Court's obvious reluctance to decide the constitutionality of §610, as well as other legislative acts,⁴ until absolutely necessary, our Court today rushes to do just that. My brother Matthes defends the action of the Court by arguing that the Courts of Appeals are rigidly bound to the literal wording of Rule 28(a)(2).

Rule 28(a)(2), which states in part that the brief of appellant shall contain "[a] statement of the issues pre-

⁴ See, e.g., *Mackey v. Mendoza-Martinez*, 362 U.S. 384 (1960); *Alma Motor Co. v. Fimken-Detroit Axle Co.*, 329 U.S. 129 (1946).

sented for review," was primarily designed to clarify counsel's presentation of an appeal as well as to lighten the labors of the court. *Thys Company v. Anglo California National Bank*, 219 F.2d 131 (9th Cir.), cert. denied, 349 U.S. 946 (1955); *Iva Ikuko Toguri D'Aquino v. United States*, 192 F.2d 338 (9th Cir. 1951). It was not designed to permit counsel to manipulate this Court to their own interest or to prevent this Court from meeting its responsibility. See, *United States v. International Union, supra*; *United States v. C.I.O., supra*.

I recognize, as Justice Black enunciated in *Clay v. Sun Insurance Office*, 363 U.S. 207 (1960), that avoidance of constitutional questions is discretionary and should be used only under the proper circumstances. I can conceive of no circumstances more appropriate than those in this case. The minority's decision would remand the case to the District Court for trial under appropriate and proper instructions. It is possible that under such instructions, our Court will not be called upon to judge this Congressional act.

The Supreme Court's Rule 23(1)(c)⁵ is similar, in scope and purpose, to our Rule 28(a)(2). Yet the Supreme Court has not felt the need to religiously follow this general rule in the face of other important policy considerations.⁶ Nor have the appellate courts followed their own

⁵ "Rule 23. The petition for certiorari

"1. The petition for writ of certiorari shall contain in the order here indicated—

* * * * *

"(c) The questions presented for review, expressed in the terms and circumstances of the case but without unnecessary detail: The statement of a question presented will be deemed to include every subsidiary question fairly comprised therein. Only the questions set forth in the petition or fairly comprised therein will be considered by the court."

⁶ This point is persuasively demonstrated by Chief Justice Warren's dissent in *Communist Party v. S.A.C. Board*, 367 U.S. 115, 119-121 (1961). The majority's failure to consider the issue urged

rule as strictly as Chief Judge Matthes would have us do. See, e.g., *Platis v. United States*, 409 F.2d 1009 (10th Cir. 1969); *United States v. O'Connor*, 291 F.2d 520 (2nd Cir. 1961); *General Finance Loan Co. v. General Loan Co.*, 163 F.2d 709 (8th Cir. 1947).

Rule 28(a)(2) was intended to serve the Court, not to hamstring it. Long held notions of constitutional adjudication advise us to remand this case for a new trial with proper instructions. We should do so.

Judges Lay and Bright have authorized me to state that they join in this dissenting opinion, and I join in Judge Lay's dissent.

LAY, Circuit Judge, dissenting.

I would reverse the judgment below and remand for a new trial for the reasons set forth in Judge Heaney's dissenting opinion. I direct myself to the procedural question discussed in the concurring opinion.

First, I disagree with the majority that the trial court's instruction was not attacked as error by the defendants in their original briefs on appeal. Second, this court set aside the original submission of the appeal and directed anew the parties to file supplemental briefs for the benefit of the court en banc. The defendants specifically question the propriety of the instruction in their supplemental brief and the government did not raise the issue of abandonment or noncompliance with the Federal Rules of Appellate Procedure. Third, it is an equally "deeply entrenched principle" that in the public interest and to guard against

there is not controlling in this case because of significant and material differences in the procedural postures of the two cases. At most, *Communist Party* was a case in which Justice Black's notion of using discretion in avoiding constitutional questions led to a result opposite of that here.

manifest injustice this court will notice errors not properly raised for review, if such errors are obvious or otherwise seriously affect the fairness and integrity of the judicial proceeding.

There exists a fundamental discrepancy in the concurring opinion's restatement of the constitutional issues as raised by the defendants. The First Amendment issue is there stated to be:

"Section 610 is unconstitutional because it abridged appellants' and all union members First Amendment rights."

However, the proposition stated in defendants' original brief is fashioned not as an abstraction but as a justiciable issue:

"Section 610, Title 18, U.S.C., *as construed and applied by the Court below*, abridges the defendants' rights as well as the rights of all union members, of freedom of speech, press and assembly and the right to petition the Government for redress of grievances, in violation of the First Amendment of the Constitution of the United States." (My emphasis.)

The justiciable controversy is the application of § 610 "*as construed and applied by the Court below*." (My emphasis.) The district court's instruction to the jurors informed them the law of the case as it was actually tried. The district court instructed the jury; "[T]he mere fact that the payments into the fund may have been made voluntarily by some or even all of the contributors thereto does not, of itself, mean that the money so paid into the fund was not union money." The defendants' 98 page attack is explicitly *directed to this construction* of Section 610. To now urge that the district court's instruction is not raised as error by the defendants on appeal is to ignore the heart of the matter being litigated. Cf. *Terminiello v. Chicago*, 337 U.S. 1 (1949). It approaches appellate review in the celestial light of abstractness.

To follow the logic of the majority's theory of abandonment does more than to shackle the appellate process to whatever narrow remedy might be sought by a party. It refuses as well any consideration of the broad congressional power given to this court under 28 U.S.C.A. § 2106,¹ and requires us to determine troublesome constitutional issues raised not by the congressional intent or enactment but by reason of the district court's narrow interpretation of the statute.

We should not pass upon the issue of the constitutionality of § 610 when it is not properly before us. The district court failed to instruct the jury that voluntary contributions to the fund are not within the scope of the statute. The statute does not and cannot proscribe use of voluntary funds. *United States v. Auto Workers*, 352 U.S. 567, 592 (1957); *United States v. C.I.O.*, 335 U.S. 106, 123 (1948). Not until the statute is given its intended construction should we weigh the constitutional issues presented. As the concurring opinion authoritatively concedes, constitutional validity of legislative action should not be passed upon until the conflict is unavoidable. See also *Thorpe v. Housing Authority*, 393 U.S. 268, 284 (1969); *Rosenberg v. Fleuti*, 374 U.S. 449, 451 (1963). As this writer observed in *In re Weitzman*, 426 F.2d 439, 454-55 (8 Cir. 1970), "the abandoning of a valid claim on appeal cannot dictate to the court when it must reach a constitutional issue." Thus, the majority, under the guise of allegiance to rules of procedure, admittedly setting aside well established principles of constitutional construc-

¹ Section 2106 reads:

"The Supreme Court or any other court of appellate jurisdiction may affirm, modify, vacate, set aside or reverse any judgment, decree, or order of a court lawfully brought before it for review, and may remand the cause and direct the entry of such appropriate judgment, decree, or order, or require such further proceedings to be had as may be just under the circumstances."

tion, must, because the parties so shaped the question, meet constitutional issues headon. As the concurring opinion concedes, this is simply not good policy, nor should it be.

The majority opinion upholds the constitutionality of § 610. It does so without reference to the facts of the case, since the basis of the opinion completely disregards the district court's narrow and erroneous construction of the statute. In doing so, it overlooks that the defendants were convicted under the erroneous, and in my judgment, unconstitutional, application of the statute as encompassing funds voluntarily paid by union members for political activity. The majority justify their decision because they say the instruction itself is not attacked on appeal. The defendants' original brief belies this statement. The instruction is expressly attacked and defendants' counsel repeatedly and specifically explain the basis of the attack.²

² The instruction is set out on page 37 of defendants' brief. Defendants' brief argues:

"The Court also instructed that (A. p. 1116): 'the mere fact that the payments into the fund may have been made voluntarily by some or even all of the contributors thereto does not, of itself, mean that the money so paid into the fund was not union money.'" p. 37.

"The Court below construed Section 610 as prohibiting officers, agents and members of a union from forming a parallel political organization and utilizing the union leaders, officers and agents in such political organization, in the obtaining, pooling and expending of direct voluntary contributions for political purposes." p. 59.

"The statute as construed denies individual rights of voluntary association for it forbids working men to associate and act through their labor leaders in the political field to protect their collective rights. This includes both their rights as union members and the rights of the union which they have joined. Even though the choice of candidates may determine whether those rights will be secured or destroyed, the statute as construed, prohibits union members from protecting and advancing those rights." p. 65.

"The Court instructed the jury that it could find that a separate voluntary political fund was in fact a union fund

In essence, what the majority is saying is that although the district court's erroneous construction of the statute is raised on appeal, the defendants failed to ask for the right relief or remedy (a new trial), as a consequence of which the judgment must be affirmed. The federal rules governing procedure were never intended to punish a party for failure to seek the proper relief.³ Decisions are replete holding that a court of appeals may shape the remedy regardless of the relief sought.⁴ Section 2106 is

by any and all circumstances in evidence (A. pp. 1112-1115). "This interpretation was made by the court despite the legislative history to the effect that a separate voluntary fund, such as the one here, is excluded from the criminal sanctions of Section 610 and without any judicial support or any prior prosecution (See Argument I, *supra*). Thus, as applied and interpreted by the lower court, Section 610 is unconstitutionally vague as it failed to give defendants fair warning of its scope and was a retroactive, unforeseeable judicial enlargement of the statute.

"Such a fortuitous judicial construction, analogous to legislative *ex post facto*, intensifies the vagueness of the statute and is even more so inimical to due process than if the statute is merely vague on its face." pp. 68-69.

"As such, the statute, as constructed by the district court, totally inhibits the fundamental freedoms of expression, assembly and petition guaranteed by the First Amendment (See Argument II, *supra*). Where a statute operates to restrain protected First Amendment freedoms, stricter standards of permissible statutory vagueness are to be applied." p. 72.

³ This application of the rules violates the spirit and letter of the rules themselves. Compare Rule 54(c) of Fed. R. Civ. P., which reads in part: "[E]very final judgment shall grant the relief to which the party in whose favor it is rendered is entitled, *even if the party has not demanded such relief in his pleadings.*" (My emphasis.)

⁴ Compare *Türk v. United States*, 429 F.2d 1327 (8 Cir. 1970), an opinion in which Chief Judge Matthes joined, where because of insufficient evidence to justify an arrest and search we vacated a judgment of conviction, but remanded *sua sponte* for an evidentiary hearing on probable cause.

This court's recent remand in *Laclede Gas Co. v. NLRB*, 421 F.2d 610 (8 Cir. 1970), is viewed with jaundiced eye in the con-

authority and index to these decisions. See *Neely v. Eby Constr. Co.*; 386 U.S. 317 (1967).⁵ FRAP is not concerned

curing opinion. It should be stated that a vigorous petition for a rehearing en banc was filed in that case. Not a single judge requested a vote for an en banc hearing and the petition was denied. Additionally unrecalled is the existence of compelling authority and reason for a court of appeals to remand to the National Labor Relations Board under such circumstances. See e.g., *Nuelsen v. Sorensen*, 293 F.2d 454, 462 (9 Cir. 1961), where the court said:

"Yet none of these theories were advanced in appellant's pleadings, stated as issues in the pre-trial order, presented in the trial court, or dealt with in the briefs on appeal. This court has refused to reverse on a ground not argued in the trial court. *United States v. Waechter*, 9 Cir., 195 F.2d 963.

"This accords with the general rule that an appellate court will not consider sua sponte arguments not presented or urged by the litigants. This restraint is essential in order that parties may have the opportunity to offer all the evidence they believe relevant to the issues which the trial forum is to decide and in order that the litigants not be surprised on appeal by final decision there of issues upon which they have had no opportunity to introduce evidence. *Hornel v. Helvering*, 312 U.S. 552, 556, 61 S.Ct. 719, 85 L.Ed. 1037.

"There is, however, no rigid and undeviating judicially declared practice under which courts of review, invariably and under all circumstances decline to consider all questions which have not previously been specifically urged. Indeed there could not be without doing violence to the statutes which give federal appellate courts the power to modify, reverse or remand decisions 'as may be just under the circumstances.' 28 U.S.C.A. § 2106. Exceptional cases or particular circumstances may prompt a reviewing court, where injustice might otherwise result or where public policy requires, to consider questions neither pressed nor passed upon below. The power to raise and decide questions sua sponte is, however, to be exercised sparingly and with full realization of the restrictions and limitations inherent in its employment.

"Rather than consider the matter sua sponte, of course, the appellate court may note the existence of the unargued, undecided question and remand the case to the lower court. This makes the decision on the matter one reflecting the consideration of a trial court and the counsel in the case.

"In our opinion justice requires that such a course be followed in this case." (My emphasis)

⁵ In *Neely* the court of appeals had granted a judgment n.o.v. Although a motion for new trial was not presented by the verdict-

with *how* the issue is raised, but *what* is raised. To reason that a defendant is to be deprived of any relief from an erroneous conviction merely because he names the wrong remedy on appeal is reminiscent of the rigid and rationalized distinctions from the days of code pleading.⁶

Assuming *arguendo* merit to the majority's view in the context of the original briefs, I add an additional word of concern. On August 19, 1970, this court ordered the panel's original judgment to be vacated and to have the case resubmitted to the court en banc. The clerk of the court was then directed to notify the parties that they could submit supplemental briefs. On September 10, 1970, Mr. Tucker wrote the parties:

"Reference is made to the Court's order of August 19, 1970, vacating our previous judgment and reinstating the case on our calendar. I am directed by the Court to inform counsel that this appeal is to be submitted to the Court en banc on Wednesday, October 14, 1970, at 9 a.m.

"Counsel for appellants may have to and including September 22, 1970, in which to file any additional briefs thought appropriate and counsel for appellee, United States, may have to and including October 1, 1970, in which to file additional brief.

"Any subsequent briefs may be in typewritten form on lettersize paper and fastened in the left margin. I will need an original and seven copies of typewritten

holder on appeal nor by a petition for rehearing, the Supreme Court stated that "It was, of course, *incumbent* on the Court of Appeals to consider the new trial question in the light of its own experience with the case. But we will not assume that the court ignored its duty in this respect, although *it would have been better had its opinion expressly dealt with the new trial question.*" 386 U.S. at 329-30. (My emphasis.)

⁶ This recalls to mind Maitland's aphorism that "the forms of action we have buried, but they still rule us from their graves." Maitland, *The Forms of Action at Common Law* 296 (1909).

briefs which should, of course, be served on opposing counsel."

On September 17, 1970, the defendants submitted a supplemental brief requesting in the alternative a new trial, for the reason that:

"The Court below erred in instructing the jury that it could find the defendants guilty even if it believed all of the contributions to the Political Fund were voluntarily made."

On September 29, 1970, the government responded solely to that proposition. Ironically, it is not the government that first raises the question of violation of the Federal Rules of Appellate Procedure.

The concurring opinion construes the Federal Rules of Appellate Procedure as inflexibly barring this court's consideration of the erroneous instruction. Assuming solely for the sake of argument that one could reasonably say that the defendants did not properly attack the court's construction of the statute on appeal, the concurring opinion overlooks another "deeply entrenched principle" followed by this circuit. Senior Judge Vogel, when Chief Judge of this court, said in *Harris v. Smith*, 372 F.2d 806, 815 (8 Cir. 1967), "An additional ground of error, *although not urged on appeal*, should be noticed by this court because of its substantial effect upon the rights of the parties." (My emphasis.) Judge Vogel quoted from *General Finance Loan Co. v. General Loan Co.*, 163 F.2d 709, 711 (8 Cir. 1947), where the late Judge Thomas observed:

"We may, however, in our discretion consider a plain error apparent on the face of the record for the purpose of avoiding a manifest miscarriage of justice, or where the issue raised is one of public concern, even in a civil case. *Kincade v. Mikles*, 8 Cir., 144 F.2d 784; *National Aluminate Corporation v. Permutit Co.*, 8 Cir., 144 F.2d 93."

And we said in *Lewis v. United States*, 340 F.2d 678, 683 (8 Cir. 1965), "it (is) our duty to correct clear error' where shown to exist." See also *Harris v. United States*, 297 F.2d 491, 492 (8 Cir. 1961); *Page v. United States*, 282 F.2d 807, 810 (8 Cir. 1960); *United States v. 353 Cases, Etc.*, 247 F.2d 473, 477 (8 Cir. 1957); *Cave v. United States*, 159 F.2d 464, 469 (8 Cir. 1947), cert. denied 331 U.S. 847, rehearing denied 332 U.S. 786. The concurring opinion's inflexible approach to appellate review is contrary to the view taken not only by this circuit, but by all other courts of appeals. In *United States v. Achilli*, 234 F.2d 797, 809 (7 Cir. 1956), aff'd 353 U.S. 373 (1957), the court said: "Rule 52(b) was designed to reach errors of such a substantial nature that they would, if not corrected, result in a manifest miscarriage of justice. [citing authority.] Inasmuch as errors within the comprehension of the provisions of this rule are those of such a nature that they must be corrected to prevent a manifest injustice, it is incumbent upon a reviewing court to notice such error *sua sponte* although the issue presented is *not raised on appeal*." (My emphasis.) In *Forakis v. United States*, 137 F.2d 581, 582 (10 Cir. 1943), the Court of Appeals for the Tenth Circuit observed: "That general rule [errors not preserved are not reviewable on appeal] bears the well recognized exception that where life or liberty is involved, an appellate court may notice and correct serious errors which were fatal to the rights of the accused even though they were not challenged or reserved." In *Gros v. United States*, 136 F.2d 878, 880-81 (9 Cir. 1943), reversed on rehearing 138 F.2d 260, the principle is similarly expressed: "It is obvious that it is immaterial in a court of justice whether the court *sua sponte* first recognizes and calls attention to a plain error 'absolutely vital to defendants' and that appellant's counsel then urges it, or that counsel first calls the appellate court's attention to the vital error." See also *Fisher v. United States*, 328

U.S. 463, 467-68 (1946); *Screws v. United States*, 325 U.S. 91, 107 (1945); *Reisman v. United States*, 409 F.2d 789, 791 (9 Cir. 1969); *McMillan v. New Jersey*, 408 F.2d 1375, 1377 n. 7 (3 Cir. 1969); *Garza-Fuentes v. United States*, 400 F.2d 219, 223 (5 Cir. 1968), cert. denied 394 U.S. 963 (1969); *Stephan v. United States*, 133 F.2d 87, 89-90 (6 Cir. 1943), cert. denied 318 U.S. 781 (1943).

I cannot judicially accept the reasoning that manifest injustice may take place in a criminal trial and yet lay beyond the reach of appellate review because a lawyer inadvertently failed to protect the defendant's rights in an appellate brief. There should exist no talismanic phrases to excite an appellate judge to recognize a miscarriage of justice in a criminal appeal. For an appeals judge to take effective action in these circumstances, even where counsel fails to properly preserve the error, is not advocacy, but rather an urgent and necessary exercise of judicial responsibility. If this be proscribed as advocacy, the breadth and meaning of judicial review would have been rendered meaningless long ago. See generally Cardozo, *The Growth of the Law* (1924).⁷

As the Supreme Court has observed:

"Rules of practice and procedure are devised to promote the ends of justice, not to defeat them. A rigid and undeviating judicially declared practice under which courts of review would invariably and under all circumstances decline to consider all questions which had not previously been specifically urged

⁷ In this work Mr. Justice Cardozo, while on the New York Court of Appeals, observed:

"Every decision, where the judicial process is creative, and not merely static or declaratory, is a reflection of the problem and an expression of the answer. The philosophy may be inconsistent or unsound or distorted. The answers will share the vice, and be perverse or unwise or contradictory. The problem is always present. We shall not find the solution by acting as if there were nothing to be solved." At 27.

would be out of harmony with this policy. Orderly rules of procedure do not require sacrifice of the rules of fundamental justice." *Hormel v. Helvering*, 312 U.S. 552, 557 (1941).⁸

I am authorized to say that Judge Heaney and Judge Bright concur in this opinion.

A true copy.

Attest:

Clerk, U.S. Court of Appeals, Eighth Circuit.

⁸ Mr. Justice Cardozo also reflected:

"The passing years have not brought to me the gift of wisdom, but they have at least opened my eyes to the perception that distinctions which in those early days seemed sharp and obvious are in truth shadowy and blurred; the walls of the compartments in no wise water-tight or rigid." Cardozo, *supra* n. 7 at 36.

14
No. 1289
Supreme Court of the United States

No. 1289 -----, October Term, 19 70

Pipefitters Local Union No. 562 et al.,

Petitioners,

v.

United States

ORDER ALLOWING CERTIORARI. Filed May 24 -----, 19 71.

The petition herein for a writ of certiorari to the United States Court of Appeals for the Eighth ----- Circuit is granted.

Mr. Justice Blackmun took no part in the consideration or decision of this petition.